

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
PROJECT VERITAS and PROJECT :
VERITAS ACTION FUND, : Civil Action No. 7:23-cv-04533
:
Plaintiffs, :
:
-against- :
:
JAMES O’KEEFE, TRANSPARENCY 1, :
LLC d/b/a O’KEEFE MEDIA GROUP, RC :
MAXWELL, and ANTHONY :
IATROPOULOS, :
:
Defendants. :
-----X

**AFFIDAVIT OF MARC J. RANDAZZA IN SUPPORT OF
MOTION FOR ADMISSION *PRO HAC VICE***

I, Marc J. Randazza (“Applicant”), hereby state and depose as follows:

1. I am licensed in the following jurisdictions, including federal courts and am an active member in good standing in each of those jurisdictions as follows: SEE ATTACHED LIST,

Exhibit 1.

2. I have never been convicted of a felony.

3. I earned a J.D. in 2000 from Georgetown University Law Center, a Master of Arts in Mass Communications (MAMC) in 2003 from the University of Florida, and an LL.M. in International Intellectual Property Law in 2014 from Università di Torino Facoltà di Giurisprudenza. I am the managing member of Randazza Legal Group and my primary practice areas are in First Amendment litigation, trademark and copyright matters, and employment disputes.

4. I will faithfully adhere to all rules applicable to my conduct in connection with any activities in this Court, as I have in all prior *pro hac vice* appearances in this Court.

5. I have never been disbarred or denied admission or readmission by any court, except that I was denied admission *pro hac vice* in the Connecticut Superior Court while disciplinary proceedings related to the matters described below were pending. I was also denied admission *pro hac vice* in the Texas District Court of Travis County in a matter related to the Connecticut Superior Court case. No reason was provided by that Court for that denial. Additionally, the U.S. District Court for the District of New Hampshire denied *pro hac vice* admission on account of the pending Nevada referral, disclosed below. I have been censured and/or suspended by the Bar or courts of certain jurisdictions in which I am licensed, and I describe such actions as follows:

6. I was disciplined by one jurisdiction (Nevada) and then subject to reciprocal discipline for conduct of nearly eleven years ago. The last jurisdiction to enter reciprocal discipline was Florida, which instead of merely adopting the underlying Nevada stipulated discipline, engaged in its own full fact finding and issued a full independent opinion after a bench trial. The Florida Referee's decision is attached as **Exhibit 2**. The factfinder determined that I did not do anything "actually adverse" to my clients. *See id.* at 6. And there were no "factors in aggravation warranting any discipline in excess of that imposed by Nevada." *Id.* at 8.

7. In 2018, I was disciplined by the Supreme Court of Nevada for conduct that occurred in 2012. *See **Exhibit 3**, In re Marc J. Randazza*, Bar No. 12265, No. 76543 (Nev. Oct. 10, 2018) (Order Approving Conditional Guilty Plea) and **Exhibit 4** (Conditional Guilty Plea). The stipulated and implemented discipline was a twelve-month suspension, stayed for eighteen months, with certain other conditions. *See **Exhibits 3 & 4***.

8. The Nevada discipline arose from a negotiated agreement between myself and the Southern Nevada Disciplinary Board. The stipulated facts forming the basis of the discipline are as set forth in the enclosed Conditional Guilty Plea.

9. As set forth in the Conditional Guilty Plea, the discipline arose from a specific circumstance where I represented a company as in-house counsel, along with its sister entity. Those circumstances will not repeat themselves as I am not in-house counsel for any clients and I now recognize where I misunderstood my ethical obligations.

10. I fully complied with the State of Nevada discipline and completed my Nevada probation. *See* **Exhibit 5**, Letter from State Bar of Nevada.

11. Reciprocal discipline in the nature of a probation or stayed suspension was imposed by the State of Arizona, the State of Florida, the Commonwealth of Massachusetts, and the State of California. *See* **Exhibits 6, 2, 7 and 8**. I fully completed the terms of discipline in Arizona, California, and Massachusetts and no suspensions were imposed. *See* **Exhibits 9 & 10**. Among its requirements, California required me to retake the MPRE, wherein I scored a 119. *See* **Exhibit 11**.

12. Reciprocal discipline of probation or a stayed suspension was imposed by the U.S. District Courts for the District of Massachusetts and for the Southern District of Florida (which probation expired before the discipline issued), and by the U.S. Patent & Trademark Office. *See* **Exhibits 12, 13, and 14**. The District of Massachusetts terminated proceedings on June 23, 2020, without imposing a suspension. *See* **Exhibit 15**. The discipline imposed by the PTO expired on January 23, 2021.

13. Reciprocal discipline in the nature of a brief active suspension was imposed by the U.S. District Court for the District of Nevada, which expired on April 10, 2020. *See* **Exhibit 16**. I was reinstated on June 9, 2020. *See* **Exhibit 17**.

14. The U.S. Court of Appeals for the Federal Circuit stayed all proceedings pending the completion of the Nevada discipline and terminated proceedings on May 28, 2020 without imposing discipline. *See* **Exhibit 18**.

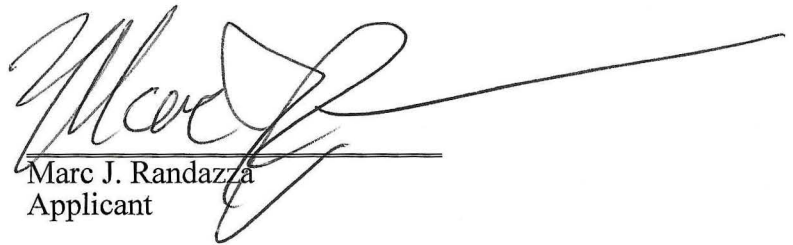
15. Every other state court, Federal court, or Federal agency to issue a determination in response to the Nevada state discipline has either declined to take action, stayed all proceedings, or issued a stayed suspension or probation, or has readmitted me.

16. Additionally, while it does not appear that these circumstances constitute a “disciplinary proceeding”, I am providing notice out of an abundance of caution and candor, because I do not wish to gloss over any event that could be even close to the fence. My firm represented the plaintiff in the matter of *Serio v. Busack, et al*, Case No. 2:21-cv-01940-JAD-NJK, (D. Nev. filed Oct. 20, 2021). It was a claim for copyright infringement. The defendant defaulted and our firm sought entry of judgment by default and an award of attorneys’ fees. The plaintiff also had Florida counsel, who did not appear in the action, but provided assistance on the file. At all relevant times, that firm did some work, under my firm’s supervision, and all actual representation was by and filtered through our firm. However, as is customary in these circumstances, allowed under applicable Ninth Circuit precedent, and in my client’s best interest, our request for a fee award included the fees of this out of state firm. *See, e.g., Winterrowd v. Am. Gen. Annuity Ins. Co.*, 556 F.3d 815, 825 (9th Cir. 2009); *Hanrahan v. Statewide Collection, Inc.*, No. 21-16187, 2022 U.S. App. LEXIS 24773, at *3 (9th Cir. Sep. 1, 2022).

17. The Magistrate Judge, *sua sponte*, issued an Order to Show Cause (**Exhibit 19**) suggesting those attorneys were engaged in the unauthorized practice of law and that our firm was suborning this. Myself and my firm responded, explaining why this was inconsistent with Ninth Circuit precedent and applicable law. Nevertheless, the judge referred the matter to the State Bar of Nevada on May 2, 2023. The State Bar of Nevada opened grievance files on May 31, 2023. **Exhibit 20**. I believe the Magistrate Judge improperly disregarded Ninth Circuit precedent that states that what my firm and the out of state firm did was not inappropriate. *See Winterrowd*, 556 at 825; *Hanrahan*, 2022 U.S. App. LEXIS 24773, at *3. Nevertheless, there is a pending investigatory file open. It has not matured past the inquiry phase.

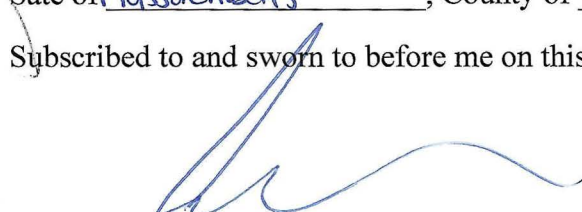
18. I am aware of no other matters in which I have been sanctioned or disciplined.
I declare under penalty of perjury the foregoing is true and correct.

Dated: 11/6/2023


Marc J. Randazza
Applicant

Sate of Massachusetts, County of Essex

Subscribed to and sworn to before me on this 6 day of November, 2023.


Notary Public
My commission expires: May 27, 2027

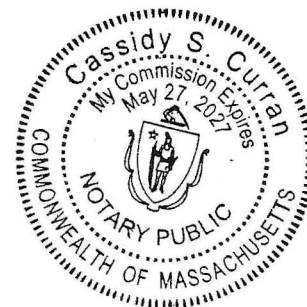


Exhibit 1

Marc J. Randazza Admissions

Marc J. Randazza, Esq.State Bar Admissions

<u>State</u>	<u>Date of Admission</u>	<u>Bar No.</u>	<u>Good Standing</u>
Commonwealth of Massachusetts	01/24/2002	651477	Yes
State of Florida	03/25/2003	625566	Yes
State of California	05/20/2010	269535	Yes
State of Arizona	08/26/2010	027861	Yes
State of Nevada	01/06/2012	12265	Yes

Federal Court Admissions

<u>Title of Court</u>	<u>Date of Admission</u>	<u>Good Standing</u>
Supreme Court of the United States	02/28/2005	Yes
U.S. Court of Appeals for the First Circuit	05/08/2003	Yes
U.S. Court of Appeals for the Second Circuit	08/14/2018	Yes
U.S. Court of Appeals for the Fourth Circuit	11/06/2015	Yes
U.S. Court of Appeals for the Fifth Circuit	06/23/2021	Yes
U.S. Court of Appeals for the Sixth Circuit	07/30/2013	Yes
U.S. Court of Appeals for the Seventh Circuit	11/06/2009	Yes
U.S. Court of Appeals for the Ninth Circuit	09/04/2009	Yes
U.S. Court of Appeals for the Tenth Circuit	11/03/2011	Yes
U.S. Court of Appeals for the Eleventh Circuit	06/20/2003	Yes
U.S. Court of Appeals for the Federal Circuit	09/01/2006	Yes
U.S. District Court for the District of Massachusetts	06/12/2002	Yes
U.S. District Court for the Northern District of Florida	05/17/2005	Yes
U.S. District Court for the Middle District of Florida	06/09/2003	Yes
U.S. District Court for the Southern District of Florida	08/04/2006	Yes
U.S. District Court for the Northern District of Texas	11/12/2009	Yes
U.S. District Court for the Western District of Texas	06/30/2021	Yes
U.S. District Court for the Eastern District of California	06/08/2010	Yes
U.S. District Court for the Southern District of California	06/08/2010	Yes
U.S. District Court for the Central District of California	06/08/2010	Yes
U.S. District Court for the Northern District of California	06/22/2010	Yes
U.S. District Court for the District of Arizona	10/19/2010	Yes
U.S. District Court for the District of Colorado	03/28/2011	Yes
U.S. District Court for the District of Nevada	02/01/2012	Yes
U.S. District Court for the Eastern District of Wisconsin	06/18/2010	Yes
U.S. District Court for the Northern District of Ohio	02/13/2012	Yes
U.S. District Court for the Eastern District of Michigan	06/30/2009	Yes
U.S. District Court for the District of Columbia	09/13/2021	Yes
U.S. District Court for the District of Connecticut	04/10/2023	Yes
U.S. Bankruptcy Court Eastern District California	07/01/2021	Yes
U.S. Bankruptcy Court for the District of Connecticut	04/10/2023	Yes

Exhibit 2

The Florida Bar Referee's Report and Supreme Court Order

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

v.

MARC JOHN RANDAZZA,

Respondent.

Supreme Court Case
No. SC19-188

The Florida Bar File
No. 2020-00,216(2B) NFC

REPORT OF REFEREE

I. SUMMARY OF PROCEEDINGS

Pursuant to the undersigned being duly appointed as referee to conduct disciplinary proceedings herein according to Rule 3-7.6, Rules of Discipline, the following proceedings occurred:

This is a reciprocal discipline case. The Respondent filed The Notice of Discipline by a Foreign Jurisdiction (Nevada) in the Florida Supreme Court and had as attachments the Nevada Order Approving a Conditional Guilty Plea and the underlying Conditional Guilty Plea. Respondent's Exhibit 3; Tr. Vol. II, page 235, lines 8-10. On January 6, 2019, The Florida Bar filed its Formal Complaint against Respondent. On February 19, 2019, The Florida Bar noticed respondent that a case Management Conference would be conducted by the referee on March 8, 2019. On May 3, 2019, the referee commenced the Final Hearing in this matter.

Mr. Fisher, counsel for The Florida Bar, Mr. Weiss, counsel for the Respondent and the Respondent, Mr. Randazza, were present. Needing additional time to conclude the Final Hearing, the parties rescheduled the second day. Due to events beyond everyone's control, the Final Hearing was rescheduled again. The second day of the Final Hearing convened on January 8, 2020. All items properly filed including pleadings and exhibits in evidence and the report of referee constitute the record in this case and are forwarded to the Supreme Court of Florida.

II. FINDINGS OF FACT

Jurisdictional Statement. Respondent is, and at all times mentioned during this investigation was a member of The Florida Bar subject to the jurisdiction and Disciplinary Rules of the Supreme Court of Florida.

Narrative Summary Of Case.

Because this is a reciprocal discipline action, it is based on the Findings of Fact, Conclusions of Law and Recommendation of the Southern Nevada Disciplinary Board of the State Bar of Nevada dated July 10, 2018 and Order Approving Conditional Guilty Plea Agreement of the Supreme Court of the State of Nevada, dated October 10, 2018. The Supreme Court of the State of Nevada imposed a 12 month suspension, stayed for 18 months of probation subject to conditions. Those findings of fact and Order are attached to The Florida Bar's Formal Complaint.

In or about June 2009, the Respondent drafted and signed a Legal Services Agreement with Excelsior Media Corp. (Excelsior) which provided that the Respondent would become “in-house” general counsel. The Agreement did not prohibit the Respondent from maintaining ad private practice or providing legal services to other clients so long as there was no conflict of interest with Excelsior. Excelsior had a subsidiary or affiliate company, Liberty Media Holdings, LLC (Liberty), which engaged in the production and distribution of pornography. The Respondent provided legal services to both entities, but did not have a separate agreement with Liberty.

In February 2011, Excelsior relocated its corporate offices to Las Vegas, Nevada. The Respondent followed in June 2011 and was admitted to the Nevada Bar in January 2012. Until his admission, the Respondent did not engage in the practice of law in the State of Nevada, except as a member of the bar of the U.S. District Court for the District of Nevada.

On or about June 20, 2012, the Respondent filed a lawsuit against FF Magnat Limited d/b/a Oron.com (Oron) for alleged violations of Liberty’s intellectual property. On or about June 21, 2012, the Respondent obtained and injunction against Oron freezing certain accounts and funds of Oron. On July 1, 2012, the Respondent and attorneys for Oron signed a Settlement Letter with regard to the Oron litigation and a similar case between the two parties in Hong

Kong. The parties agreed that Oron would pay Liberty \$550,000 payable to the Respondent's trust account. A dispute arose after the Settlement Letter was signed. Liberty filed a Motion to Enforce the settlement letter which the United States District Court granted on August 7, 2012. Liberty obtained a Judgment against Oron for \$550,000. As part of the Post-Judgment settlement negotiations, Oron informed the Respondent that it wanted to enter into an agreement to retain the Respondent for bona fide legal services. Specifically, Oron wanted the Respondent to advise it how to avoid this type of litigation in the future and how to restructure the company so as to not be subject to jurisdiction in the United States. Tr. II, page 215, lines 2-25, 216, lines 1-14. Subject to the agreement of Liberty and its execution of a Post-Judgment agreement, the Respondent negotiated a separate agreement with Oron whereby he would receive \$75,000 of Oron's frozen funds. On August 6, 2012, while still in litigation representing Excelsior against Oron, the Respondent executed a \$75,000 non-refundable, "earned upon receipt retainer" to represent FF Magnat, the parent company of Oron. Tr. II, page 254, lines 17-28 and page 258, lines 8-14, The retainer agreement clearly stated that it could not take effect unless and until Liberty's dispute with Oron was fully resolved. See Transcript, Vol. II, at 215:20-216:1 & 239:25-240:7. The Respondent presented and subsequently discussed the Post-Judgment Agreement, which included payment of the \$550,000 and the \$75,000 retainer for future

services with Oron, with the CEO of Liberty, Mr. Gibson. The agreement was never consummated because Mr. Gibson disapproved it. Tr. II, page 214-216, line 14; 217, lines 3-7. The Respondent did not receive the retainer fee of \$75,000.

On August 21, 2012, the Court ordered Pay Pal, Inc. to transfer \$550,000 of Oron funds to the Randazza Legal Group trust account. A full and proper accounting occurred with Liberty receiving its share.

Concurrent with the United States litigation between Liberty and Oron, the Respondent and Mr. Gibson also discussed pursuing litigation against Oron and/or its affiliates in Hong Kong. The Respondent estimated those costs, excluding attorney's fees, to be approximately \$50,000. Mr. Gibson said Liberty to advance \$25,000 if the Respondent would personally advance \$25,000. The Respondent agreed and requested and Liberty executed a promissory note to him for \$25,000. The Respondent did not advise Liberty, in writing, to seek the advice of independent counsel regarding the promissory note. The Respondent and Excelsior parted ways on or about August 29, 2012. They dispute whether he resigned or was terminated.

Following his departure from Excelsior, the Respondent engaged in litigation against Excelsior, Liberty and Jason Gibson, individually over among other things money he alleged was owed to him by his former employers. The parties submitted the matter to arbitration. After a five day trial, the Arbitrator

issued an Interim Arbitration award (IAA) in favor of the employers and against the Respondent. The Florida Bar's Exhibit 1. The Referee does not give any weight to the IAA for several reasons. First, the IAA was vacated in its entirety, after a court refused to confirm it, by voluntary agreement and by order of a court of competent jurisdiction. Respondent's Exhibit 12; Tr. Vol. II, page 196, lines 18-23. Second, the burden of proof for the IAA is a preponderance of the evidence, not the clear and convincing standard as required by these proceedings. Third, the Arbitrator's findings that the Respondent engaged in unethical conduct based on testimony and evidence that occurred over a five day trial and that has not been presented or observed by this Referee are of little weight. The IAA was not a basis for any discipline by the State Bar of Nevada. While the Referee may be sympathetic to the amount of time, energy and money that the Respondent's employers spent to litigate the IAA issues, sympathy should play no part in the Referee's recommendation.

The Florida Bar argued and presented evidence of other alleged conflicts of interest engaged in by the Respondent when he represented other clients whose interests were allegedly adverse to Excelsior or Liberty. There is no clear and convincing evidence to suggest that anything the Respondent may have done on behalf of his other clients was actually adverse to Excelsior or Liberty. The Respondent testified it was not. Tr. II, page 203, line 1-204, line 24 and 246, line

4-248, line 7. The Respondent was authorized under his employment agreement to do so. Tr. Vol. II, page 198: 23-25. The Florida Bar's witness, Mr. Dunlap, offered no examples of a single matter where such representation was adverse. Tr. Vol. II, page 281, line 23-284, line 23. The only instance in which there was a conceivable conflict was with respect to the representation of XVideos, but as soon as a potential conflict arose, Respondent acted to withdraw and the conflict never ripened. Tr. Vol. II, page 248, lines 1-7. Mr. Dunlap's testimony regarding 10 Group fails to show that the Respondent represented 10 Group in that transaction. There was no conflict of interest where he briefly represented 10 Group regarding an unrelated litigation matter. The Nevada bar investigated these conflicts and no such conflicts were found. Tr. Vol. II, page 265, lines 3-11.

Since the imposition of the Nevada Order, every other state in which Respondent is admitted has issued reciprocal discipline tracking the Nevada Order. Specifically:

1. Arizona: The Presiding Disciplinary Judge issued a Final Judgment and Order of Reprimand and Probation placing Mr. Randazza on 18 months of probation, concurrent with the Nevada discipline. Respondent's Exhibit 4; Tr. Vol. II, page 189, line 11-13.

2. California: The Supreme Court of California issued a one-year suspension, stayed for one year, to be terminated upon satisfying the terms of the stay, which includes quarterly reporting and passing the MPRE. Respondent's Exhibit 9; Tr. Vol. II, page 188, lines 15-24

3. Massachusetts: The Supreme Judicial Court issued an Order of Term Suspension/Stayed, suspending Mr. Randazza for 12 months, stayed for 18

months, retroactive to the date of the Nevada discipline, with the suspension to be lifted upon compliance with the Nevada Order. Respondent's Exhibit 10; Tr. Vol. II, page 189, lines 5-10.

None of these jurisdictions found any factors in aggravation warranting any discipline in excess of that imposed by Nevada. Tr. Vol. II, page 224, lines 22-225, line 11. To date, Respondent's right to practice law has not been suspended.

Additionally, proceeding in the Federal Appellate Courts (10th, 11th and Federal Circuit) all deferred to the Nevada Order. Respondent's Exhibit 4. The Supreme Court of the United States and the U.S. Courts of Appeals for the 1st, 2nd, 4th, 6th, 7th and 9th Circuits to date, have not taken any action despite timely notice. Tr. Vol. II, page 241, lines 2-9.

Despite being put on notice of the Nevada Order, the U.S. District Courts for the Northern & Middle Districts of Florida, the Northern District of Texas, the Northern, Central, Eastern, & Southern Districts of California, the Eastern District of Wisconsin, the Eastern District of Michigan, the Northern District of Ohio, and the District of Montana (admitted pro hac vice) have taken no action toward reciprocal discipline. Tr. Vol. II, page 241, lines 2-9. The matter was referred to an investigatory subcommittee of the Ad Hoc Committee on Attorney Admissions, Peer Review and Attorney Grievance of the U.S. District Court for the Southern District of Florida following Respondent's response to a show cause order. Since the Final Hearing, on May 8, 2020, the U.S. District Court for the Southern District

of Florida adopted the disciplinary measures imposed by Nevada. See *In re: Marc John Randazza*, Case No. 18 MC 25230 (S.D. Fla. Feb. 6, 2019). This document is of record pursuant to the granting of the Respondent's Motion to Supplement the Record. The U.S. District Court for the District of Massachusetts, upon the consent of Respondent, imposed reciprocal discipline in the nature of a 12-month suspension, stayed for 18 months, retroactive to October 10, 2018, conditioned upon compliance with the Nevada Order. See Respondent's Exhibit 4, *In re: Marc J Randazza*, Misc. Bus. Dict. No. 18-mc-81490-FDS (D. Mass. sept. 26, 2019).

Only the U.S. District Court for the District of Nevada, which did not act on the prompt notice of the Nevada Order until September 2019, issued an order placing the Respondent on active suspension until the expiration of the Nevada state probation, subject to reinstatement upon discharging all conditions. See *In re: Marc J. Randazza*, Case No. 2: 19-cv-01765-MMD (D. Nev. Oct. 22, 2019). The reason given was that the court had "neither the obligation, resources, nor inclination to monitor Mr. Randazza's compliance with the probationary conditions the [Nevada Supreme Court] imposed on him." *Id.* at 1; Tr. Vol. II, page 241, lines 10-14.

Finally, the Referee does not find persuasive the numerous character letters submitted by the Respondent nor the testimony of his character witnesses, who were unfamiliar with the facts surrounding his discipline. Like the IAA award, the

Referee does not give any weight to these letters whether sent directly to the Referee's chambers or filed as an exhibit.

III. RECOMMENDATIONS AS TO GUILT.

I recommend that Respondent be found guilty of violating the following Rules Regulating The Florida Bar: 4-1.8(a) and Rule 4-5.6(b).

STANDARDS FOR IMPOSING LAWYER SANCTIONS

I considered the following Standards prior to recommending discipline: 3.0, 4.3, 9.1, 9.2 and 9.3.

IV. RECOMMENDATION AS TO DISCIPLINARY MEASURES TO BEAPPLIED

I recommend that Respondent be found guilty of misconduct justifying disciplinary measures, and that he be disciplined by:

A. One year of probation with a public reprimand and that the Respondent successfully complete the thirty hours of Florida continuing legal education ethics hours, and

B. Payment of The Florida Bar's costs in these proceedings.

V. PERSONAL HISTORY, PAST DISCIPLINARY RECORD

Prior to recommending discipline pursuant to Rule 3-7.6(m)(1)(D), I considered the following:

Age: 50 Years of Age.

Date of Bar Admission: March 3, 2003

Prior Discipline: None

Aggravating Factors: Standard 9.2

- (d) multiple offenses; and
- (i) substantial experience in the practice of law.

Mitigating Factors:

- (a) absence of a prior disciplinary record.

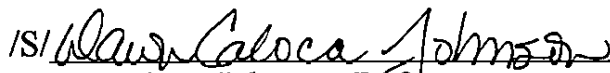
VI. STATEMENT OF COSTS AND MANNER IN WHICH COSTS SHOULD BE TAXED

I find the following costs were reasonably incurred by The Florida Bar:

Investigative Costs	\$105.25
Administrative Costs	\$1250.00
Court Reporter's Fees	\$1532.00
Total	\$2887.25

It is recommended that such costs be charged to Respondent and that interest at the statutory rate shall accrue and be deemed delinquent 30 days after the judgment in this case becomes final unless paid in full or otherwise deferred by the Board of Governors of The Florida Bar.

Dated this 7th day of July 2020.


Dawn Caloca-Johnson, Referee
301 South Monroe Street
Tallahassee, FL 32301-1861

Originals To:

Clerk of the Supreme Court of Florida; Supreme Court Building; 500 South Duval Street, Tallahassee, Florida, 32399-1927

Conformed Copies to:

James Keith Fisher, Bar Counsel, at jfisher@floridabar.org, and

John A. Weiss, Counsel for Respondent, at jweiss@rumberger.com

Supreme Court of Florida

THURSDAY, SEPTEMBER 3, 2020

CASE NO.: SC19-188

Lower Tribunal No(s):

2015-00,718(2B)

THE FLORIDA BAR

vs. MARC JOHN RANDAZZA

Complainant(s)

Respondent(s)

The Court approves the uncontested referee's report and reprimands respondent.

Respondent is further placed on probation for one year under the terms and conditions set forth in the report. Respondent shall comply with all other terms and conditions in the report.

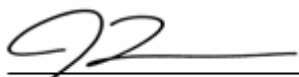
Judgment is entered for The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, for recovery of costs from Marc John Randazza in the amount of \$2,887.25, for which sum let execution issue.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

CANADY, C.J., and POLSTON, LABARGA, LAWSON, MUÑIZ, and COURIEL, JJ., concur.

A True Copy

Test:



John A. Tomasino

Clerk, Supreme Court



ca

Served:

LESLIE LAGOMASINO BAUM
HON. DAWN CALOCA-JOHNSON, JUDGE
PATRICIA ANN TORO SAVITZ

JAMES KEITH FISHER
JOHN A. WEISS

Exhibit 3

Order Approving Conditional Guilty Plea, *In re Marc J. Randazza*, Bar No. 12265, No. 76543
(Nev. Oct. 10, 2018)

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
MARC J. RANDAZZA, BAR NO. 12265.

No. 76453

FILED

OCT 10 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a conditional guilty plea agreement in exchange for a stated form of discipline for attorney Marc J. Randazza. Under the agreement, Randazza admitted to violating RPC 1.8(a) (conflict of interest: current clients: specific rules) and RPC 5.6 (restrictions on right to practice) in exchange for a 12-month suspension, stayed for a period of 18 months subject to conditions.

Randazza has admitted to the facts and the violations alleged in two counts set forth in the amended complaint.¹ The record therefore establishes that Randazza violated the above-listed rules by loaning money to his client without informing the client in writing of the desirability of obtaining independent counsel, and by negotiating with opposing counsel to receive, as part of a settlement, a retainer for future legal services.

As Randazza admitted to the violations as part of the plea agreement, the issue for this court is whether the agreed-upon discipline

¹In exchange for Randazza's guilty plea, the State Bar agreed to dismiss the remaining seven counts in the amended complaint.

sufficiently protects the public, the courts, and the legal profession. *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988) (explaining purpose of attorney discipline). In determining the appropriate discipline, we weigh four factors: “the duty violated, the lawyer’s mental state, the potential or actual injury caused by the lawyer’s misconduct, and the existence of aggravating and mitigating factors.” *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008).

Randazza has admitted to violating duties owed to his client (conflict of interest) and the legal profession (restrictions on right to practice), and the admitted facts reflect that the misconduct was knowing. His conduct may have caused a delay in the disbursement of settlement funds to his client. The baseline sanction for both rule violations, before considering aggravating and mitigating circumstances, is suspension. Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.32 (Am. Bar Ass’n 2017) (providing that suspension is appropriate when a lawyer “knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury to a client”); *id.* Standard 7.2 (providing that suspension is appropriate when a lawyer “knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system”). The record supports one aggravating circumstance (substantial experience in the practice of law) and three mitigating circumstances (absence of prior disciplinary record, full and free disclosure to disciplinary authority or cooperative attitude toward proceeding, and delay in disciplinary proceedings). Considering all the factors, we conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend Marc J. Randazza for 12 months, stayed for 18 months commencing on the date of this order, subject to the following conditions: (1) Randazza shall “stay out of trouble” during the probationary period, “meaning that he will have no new grievance arising out of conduct post-dating the date of the plea which results in the imposition of actual discipline (a Letter of Reprimand or above, SCR 102) against him”; (2) he shall successfully complete 20 hours of CLE in ethics in addition to his normal CLE requirements during the probationary period; (3) he shall seek the advice and approval of an independent and unaffiliated ethics attorney in the relevant jurisdiction before obtaining any conflicts of interest waivers during the probationary period; and (4) he shall pay the actual costs of the disciplinary proceeding, including \$2,500 under SCR 120, within 30 days of this court’s order, if he has not done so already. The State Bar shall comply with SCR 121.1

It is so ORDERED.

Douglas, C.J.
Douglas

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Chair, Southern Nevada Disciplinary Panel
Gentile, Cristalli, Miller, Armeni & Savarese, PLLC
Bar Counsel, State Bar of Nevada
Kimberly K. Farmer, Executive Director, State Bar of Nevada
Perry Thompson, Admissions Office, U.S. Supreme Court

Exhibit 4

Conditional Guilty Plea, *In re Marc J. Randazza*, Bar No. 12265, No. 76543
(Nev. June 5, 2018)



FILED

JUN 05 2018

STATE BAR OF NEVADA

BY: *[Signature]*
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA,

Complainant,

vs.

MARC J. RANDAZZA, ESQ.,

Nevada Bar No. 012265,
Respondent.

**CONDITIONAL GUILTY PLEA
IN EXCHANGE FOR A STATED
FORM OF DISCIPLINE**

Marc J. Randazza ("Respondent"), Bar No. 012265 hereby tenders to Assistant Bar Counsel for the State Bar of Nevada a Conditional Guilty Plea ("Plea") pursuant to Supreme Court Rule ("SCR") 113(1) and agrees to the imposition of the following Stated Form of Discipline in the above-captioned cases.

I.

CONDITIONAL GUILTY PLEA

Through the instant Plea, Respondent agrees and admits as follows:

1. Respondent is now and at all times since January 6, 2012 was a licensed attorney in the State of Nevada.

2. The State Bar filed a Formal Complaint on the above referenced case on January 25, 2016. Thereafter, the State Bar filed an Amended Complaint on December 16, 2016. Respondent filed various Motions to Dismiss the Amended Complaint and then ultimately filed a Verified Response to the Amended Complaint on October 23, 2017.

3. In accordance with the Stipulation of Facts herein, Respondent pleads guilty and admits that he violated Rules of Professional Conduct ("RPC") as follows:

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**II.
STIPULATION OF FACTS**

The facts stipulated to and agreed upon between Respondent and the State Bar of Nevada in support of this conditional plea are as follows:

1. Respondent is now a licensed attorney in the states of Nevada, California, Florida, Arizona, and Massachusetts. Respondent became licensed in the State of Nevada on or about January 6, 2012 and has been assigned Bar No. 12265.

2. In or about June 2009, Respondent entered into an agreement with Excelsior Media Corp ("Excelsior") which provided, among other things, that Respondent would become in-house general corporate counsel for Excelsior ("Legal Services Agreement"). The Legal Services Agreement did not prohibit Respondent from also maintaining a private legal practice to provide legal services to clients other than Excelsior.

3. At the time the Legal Services Agreement was entered into, Excelsior was headquartered in California and Respondent was licensed to practice law in the State of Florida. For a period of time following execution of the Legal Services Agreement, Respondent relocated to California, obtained admission to the State Bar of California, and maintained his primary office to perform legal work for Excelsior in California.

4. At the time the Legal Services Agreement was entered into, Excelsior had a subsidiary or affiliate called Liberty Media Holdings, LLC ("Liberty"). Liberty was engaged in the business of production and distribution of pornography. After entering into the Legal Services Agreement, Respondent provided legal services to both Excelsior and Liberty, although no separate agreement was entered into by and between Liberty and Respondent.

5. In or about February 2011, Excelsior relocated its corporate headquarters to Las Vegas, Nevada. In or about June 2011, Respondent relocated to Las Vegas, Nevada and continued working as general corporate counsel for Excelsior. Prior to June 2011, Respondent was not

1 engaged in the practice of law in the State of Nevada in any capacity, except to the extent such
2 was in his capacity as a member of the bar of the U.S. District Court for the District of Nevada.

3 6. At the direction of Excelsior, Respondent pursued violations of Liberty's
4 intellectual property rights by third parties through his separate law firm.

5 7. On or about June 20, 2012, Respondent, on behalf of Liberty, filed a lawsuit in US
6 District Court, District of Nevada against FF Magnat Limited d/b/a Oron.com ("Oron") for alleged
7 violations of Liberty's intellectual property. See Case No. 2:12-cv-01057-GMN-RJJ (hereinafter
8 "Oron Litigation").

9 8. On or about June 21, 2012, Respondent obtained an injunction in the Oron
10 Litigation freezing certain accounts and funds belonging to Oron.

11 9. On July 1, 2012, Respondent and attorneys for Oron signed a letter memorializing
12 settlement terms in regards to the Oron Litigation and a similar case between the two parties in
13 Hong Kong (hereinafter "Settlement Letter"). An essential part of the Settlement Letter was that
14 Oron would pay Liberty the sum of \$550,000 with said sum payable to Respondent's Attorney-
15 Client Trust Account.

16 10. A dispute arose after the Settlement Letter was signed. On behalf of Liberty,
17 Respondent filed a Motion to Enforce Settlement.

18 11. By Order dated August 7, 2012, the United States District Court found that the
19 Settlement Letter constituted an enforceable contract as there was a "meeting of the minds as to all
20 material terms on July 5, 2012." A Judgment was entered in the docket of the above-entitled
21 Court in favor of Liberty as Judgment Creditor and against Oron as Judgment Debtor for
22 \$550,000.00.

23 12. By Order dated August 21, 2012, the United States District Court ordered PayPal,
24 Inc., to transfer funds belonging to Oron to satisfy the Judgment by paying \$550,000.00 to the
25 trust account of Randazza Legal Group.

1 13. Between August 7, 2012 and August 13, 2012, Respondent and Oron continued
2 discussions regarding reducing the terms of the Settlement Letter and the Judgment into a more
3 definitive written agreement although the District Court had already enforced the settlement and
4 reduced the \$550,000.00 settlement amount ("Settlement Amount") to judgment ("Post-Judgment
5 Discussions").

6 14. During the Post-Judgment Discussions, Oron informed Respondent that it wanted
7 to enter into an agreement to retain Respondent for bona fide legal services, which would have the
8 practical effect of potentially conflicting off Respondent from ever representing a client in
9 litigation against Oron in the future.

10 15. Subject to the agreement of Liberty and Liberty's execution of a written agreement,
11 Respondent negotiated a separate agreement with Oron whereby \$75,000 of Oron's frozen funds
12 would be released to Oron's counsel with the understanding, but no guarantee, that such funds
13 would be used to retain Respondent as counsel for Oron for the payment of \$75,000, which would
14 have the practical effect of potentially conflicting Respondent off any future litigation against
15 Oron ("Post-Judgment Agreement").

16 16. On or about August 13, 2012, Respondent informed Liberty of the proposed Post-
17 Judgment Agreement by presenting a copy thereof to Liberty's CEO Jason Gibson for his review,
18 approval and signature. The Post-Judgment Agreement encompassed the payment of the
19 \$550,000 Settlement Amount and Judgment by Oron to Liberty as well as the release of \$75,000
20 of Oron's frozen funds to Oron's counsel.

21 17. On or about August 13, 2012, Respondent and Jason Gibson discussed the
22 proposed unfreezing of \$75,000 of Oron's funds. Jason Gibson expressed concerns to Respondent
23 about the disposition of that \$75,000 and did not consent to such unfreezing.

24 18. As a result of the August 13, 2012 discussion between Jason Gibson and
25 Respondent, the Post-Judgment Agreement was not executed. Oron's frozen funds were not

1 released, Respondent did not receive a \$75,000 payment, and Respondent did not become counsel
2 for Oron which might have conflicted him off from opposing Oron in future litigation.

3 19. In response to the District Court's Order dated August 21, 2012, PayPal transferred
4 \$550,000 of Oron's funds to pay the \$550,000 Settlement Amount and Judgment in favor of
5 Liberty. A full and proper accounting of those funds has occurred with Liberty receiving its
6 appropriate share.

7 20. During August of 2012, Respondent and Jason Gibson also discussed pursuing
8 further litigation on behalf of Liberty against Oron and/or its affiliates or related parties in
9 overseas jurisdictions. Respondent estimated additional litigation costs and expenses (not to
10 include attorney's fees) in an amount approximating \$50,000. Mr. Gibson informed Respondent
11 that Liberty was prepared to advance \$25,000 for additional costs and expenses if Respondent
12 would advance the other half. Respondent informed Mr. Gibson that he would personally advance
13 the additional required \$25,000. To memorialize the \$25,000 as an advancement of costs and
14 expenses, Respondent requested Liberty execute a promissory note to that effect.

15 21. On or about August 21, 2012, pursuant to Respondent's advancement to Liberty of
16 the \$25,000, Mr. Gibson signed a promissory note on Liberty's behalf noting the terms of
17 repayment.

18 22. Respondent did not advise Liberty, in writing, of its right to seek the advice of
19 independent counsel with regards to the promissory note.

20 23. Respondent's employment by Excelsior ceased on or about August 29, 2012 after
21 he indicated a likely need to withdraw from representing Liberty. Respondent and Excelsior
22 dispute whether Respondent resigned or was terminated by Excelsior.

23 24. RPC 5.6 reads, in part, that "[a] lawyer shall not participate in offering or making
24 ... [a]n agreement in which a restriction on the lawyer's right to practice is part of the settlement
25 of a client controversy." As part of the negotiations culminating in the drafting of the proposed

1 Post-Judgment Agreement to which Liberty was a proposed party and signatory, Respondent
 2 offered to enter into an agreement which would have the likely effect of restricting Respondent's
 3 right to practice law.

4 25. RPC 1.8(a) mandates that "a lawyer shall not enter into a business transaction with
 5 a client or knowingly acquire an ownership, possessory security or other pecuniary interest
 6 adverse to a client unless: (1) the transaction and terms on which the lawyer acquires the interest
 7 are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner
 8 that can be reasonably understood by the client, and(b) the client is advised in writing of the
 9 desirability of seeking and is given a reasonable opportunity to seek the advice of independent
 10 legal counsel on the transaction." Respondent did not advise Liberty, in writing, of the desirability
 11 or advisability of seeking the advice of independent legal counsel on the fairness of the \$25,000
 12 advance or give Liberty the reasonable opportunity to seek the advice of independent counsel
 13 before accepting the advance and signing the promissory note.

14 AGGRAVATION / MITIGATION

15 1. Pursuant to SCR 102.5(1) (Aggravation and mitigation), the Parties considered the
 16 following *aggravating* factors in considering the discipline to be imposed:

17 (i) Substantial experience in the practice of law.

18 2. Pursuant to SCR 102.5(2) (Aggravation and mitigation), the Parties considered the
 19 following *mitigating* factors in considering the discipline to be imposed:

20 (a) Absence of prior disciplinary record;

21 (e) Full and free disclosure to disciplinary authority or cooperative attitude toward
 22 proceeding including Respondent's self-reporting of the results of an arbitration
 23 proceeding which reopened this matter after the initial complaint had been closed;
 24
 25

1 (j) Delay in disciplinary proceedings recognizing that all allegations relate to
2 alleged conduct occurring almost 6 and 7 years prior to this Conditional Guilty Plea
3 with no further complaints filed with the bar subsequent to that time.

4 **III.**
5 **STATED FORM OF DISCIPLINE**

6 Based upon the above and foregoing, the Parties agree to recommend attorney discipline
7 subject to the following conditions:

8 1. The Respondent agrees to accept a term of suspension of 12 months, with the
9 suspension stayed; said suspension is to begin on the date of the Nevada Supreme Court's Order
10 approving the conditional guilty plea in this matter.

11 2. The Respondent will be placed on an eighteen-month term of probation, said
12 probation to begin on the date of the Nevada Supreme Court's order approving the conditional
13 guilty plea in this matter.

14 3. The Respondent will "stay out of trouble" during his term of probation, meaning
15 that he will have no new grievance arising out of conduct post-dating the date of this Conditional
16 Guilty Plea resulting in the imposition of actual discipline (a Letter of Reprimand or above- SCR
17 102) against him during his term of probation.

18 4. The Respondent will successfully complete twenty hours of Continuing Legal
19 Education ("CLE"), in addition to his normal CLE requirements, during his term of
20 probation. The twenty CLE hours will all be ethics credits, cannot be used as credit against any
21 other CLE requirements, and will be reported to the State Bar of Nevada.

22 5. The Respondent will seek the advice and approval of an independent and
23 unaffiliated ethics attorney in the relevant jurisdiction before obtaining any conflicts of interest
24 waivers during the probationary period.
25

IV.
CONDITIONAL AGREEMENT BY THE STATE BAR

1. Dismiss all remaining allegations of violations of Rules, with prejudice.

V.
APPROVAL OF RESPONDENT

Respondent acknowledges that he has had the opportunity to discuss this Plea with counsel of his choosing. Respondent fully understands the terms and conditions set forth herein and enters into this Plea freely and voluntarily.

Marc J. Randazza, Esq.
Nevada Bar No. 012265
c/o Dominic Gentile, Esq.
410 South Rampart Boulevard, Suite 420
Las Vegas, NV 89145

V.
APPROVAL OF BAR COUNSEL

Having read the Plea tendered by Respondent and being satisfied with the contents therein,
I hereby approve and recommend the Plea for approval by the Formal Hearing Panel.

DATED this 4 day of June, 2018.

STATE BAR OF NEVADA
Janceen V. Isaacson, Acting Bar Counsel

By: 

Matthew Carlyon
Assistant Bar Counsel
Nevada Bar No. 12712
3100 W. Charleston Blvd., Suite 100
Las Vegas, Nevada, 89102

Exhibit 5

Letter from State Bar of Nevada
(April 13, 2020)

STATE BAR OF NEVADA

April 13, 2020

Via email only to mjr@randazza.com

Marc Randazza, Esq.
2764 Lake Sahara Dr.
Suite 109
Las Vegas, NV 89117

Re: Compliance with Nevada Supreme Court Order filed October 10, 2018


Dear Mr. Randazza:

Our records reflect that you have successfully completed the conditions of your stayed suspension as set forth in the Nevada Supreme Court's Order filed October 10, 2018, in Case No. 76453, and no actual suspension will be imposed.

Congratulations on your successful completion of probation. Our file in the matter is now closed.

Please do not hesitate to contact our office if you have any questions.

Sincerely,


Daniel Hooge (Apr 13, 2020)

Daniel M. Hooge
Bar Counsel

/lw



3100 W. Charleston Blvd.
Suite 100
Las Vegas, NV 89102
phone 702.382.2200
toll free 800.254.2797
fax 702.385.2878

9456 Double R Blvd., Ste. B
Reno, NV 89521-5977
phone 775.329.4100
fax 775.329.0522

www.nvbar.org






2020.04.13_Randazza letter

Final Audit Report

2020-04-13

Created:	2020-04-13
By:	Belinda Felix (belindaf@nvbar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAUrl0u3COu_DI8BmR1itrFUKf5kVWRMfB

"2020.04.13_Randazza letter" History

-  Document created by Belinda Felix (belindaf@nvbar.org)
2020-04-13 - 5:04:06 PM GMT- IP address: 68.224.102.64
-  Document emailed to Daniel Hooge (danh@nvbar.org) for signature
2020-04-13 - 5:04:32 PM GMT
-  Email viewed by Daniel Hooge (danh@nvbar.org)
2020-04-13 - 5:33:42 PM GMT- IP address: 98.167.70.177
-  Document e-signed by Daniel Hooge (danh@nvbar.org)
Signature Date: 2020-04-13 - 5:33:48 PM GMT - Time Source: server- IP address: 98.167.70.177
-  Signed document emailed to Daniel Hooge (danh@nvbar.org) and Belinda Felix (belindaf@nvbar.org)
2020-04-13 - 5:33:48 PM GMT



Adobe Sign

Exhibit 6

Final Judgement and Order of Reprimand and Probation, State of Arizona
(January 14, 2019)

BEFORE THE PRESIDING DISCIPLINARY JUDGE

IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,

MARC J. RANDAZZA,
Bar No. 027861

Respondent.

PDJ-2018-9110

**FINAL JUDGMENT AND
ORDER OF REPRIMAND
AND PROBATION**

[State Bar No. 18-3420-RC]

FILED JANUARY 14, 2019

Under Rules 54(h) and 57(b), *Reciprocal Discipline*, Ariz. R. Sup. Ct.,¹ a certified copy of the Supreme Court of Nevada's Order Approving Conditional Guilty Plea Agreement was received by the Presiding Disciplinary Judge (PDJ).

The Order imposed a 12-month suspension, which was stayed for 18 months subject to conditions. The conditions include the following terms: Respondent shall have no new grievances out of conduct post-dating the date of the plea which results in the imposition of discipline; 2) successfully complete during the period of probation 20 hours of continuing legal education (CLE) in ethics in addition to any yearly CLE requirements; 3) seek the advice and approval of an independent and unaffiliated ethics attorney in the relevant jurisdiction before obtaining any conflict of interest waivers during the period of probation; 4) pay actual costs of disciplinary

¹ Unless otherwise stated, all rule references are to the Ariz. R. Sup. Ct.

proceeding including \$2,500.00 under SCR 120. The suspension was for Mr. Randazza's failure to avoid conflict of interests with clients and failure to advise the client of their right to seek the advice of independent counsel regarding a promissory note.

Notice of the filing of that Order was issued to the parties on November 11, 2018, in compliance with Rule 57(b)(2). Under Rule 57(b)(3), the PDJ "shall impose the identical or substantially similar discipline" unless Bar Counsel or Respondent establishes by preponderance of the evidence one of the four elements listed under that rule. Both the State Bar and Mr. Randazza filed responses. The State Bar asserts under Rule 57(b)(3), no factors are applicable, and a sanction of reprimand and probation are appropriate under the facts of this matter. Mr. Randazza asserts suspension in this matter is not warranted and would in fact be punitive. He states the appropriate resolution in this matter is to stay these proceedings until successful completion his term of probation in Nevada and to then dismiss this matter. In the alternative, Mr. Randazza requests a reprimand, or at most, be placed on probation with no additional terms.

Arizona does not recognize a stayed suspension subject to conditions. Rule 60, Ariz. R. Sup. Ct. Therefore, the imposition of an identical sanction is not appropriate and a suspension in Arizona may not be stayed in favor of probation.

We are reminded that the objective of lawyer discipline proceedings is to protect the public, the profession, and the administration of justice, and not to punish the lawyer. *In re Neville*, 147 Ariz. 106, 708 P.2d 1297. Imposing a reprimand and probation serves to advise the Bar and the public that Mr. Randazza engaged in conduct that violated the Rules of Professional Conduct. It serves the purpose of protecting the public, the integrity of the profession, educating other lawyers, and instilling confidence in the integrity of the disciplinary process. A reprimand and eighteen (18) months of probation is substantially similar discipline

Now Therefore,

IT IS ORDERED imposing reciprocal discipline of reprimand and eighteen (18) months of probation upon Respondent, **MARC J. RANDAZZA, Bar No. 027861**, effective immediately.

IT IS FURTHER ORDERED Mr. Randazza shall be placed on probation for eighteen (18) months to run concurrently with the terms and conditions as set forth in the Nevada Order Approving Guilty Plea Agreement dated October 10, 2018.

IT IS FURTHER ORDERED Mr. Randazza shall be responsible for the costs associated with this matter in the amount of \$1,200.00.

DATED this 14th day of January 2019.

William J. O'Neil
William J. O'Neil, Presiding Disciplinary Judge

Copy of the foregoing e-mailed/mailed
this 14th day of January 2019, to:

Jon Weiss
Lewis Roca Rothgerber Christie LLP
201 E. Washington Street, Suite 1200
Phoenix, AZ 85004-2595
Email: jweiss@lrrc.com
Respondent's Counsel

Maret Vessella
Chief Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, AZ 85016-6288
Email: LRO@staff.azbar.org

by: AMcQueen

Exhibit 7

Order of Term Suspension/Stayed, Commonwealth of Massachusetts
(May 14, 2019)

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO: BD-2018-110

IN RE: MARC JOHN RANDAZZA

ORDER OF TERM SUSPENSION/STAYED

This matter came before the Court, Gaziano, J., on a Petition for Reciprocal Discipline pursuant to S.J.C. Rule 4:01, § 16, and the Order entered in the Supreme Court of the State of Nevada filed by the Office of Bar Counsel on December 11, 2018.

On December 12, 2018, an Order of Notice issued and was served on the lawyer in the manner specified in S.J.C. Rule 4:01, § 21, directing him to inform the Court within thirty (30) days why the imposition of the identical discipline would be unwarranted in the Commonwealth of Massachusetts. On January 15, 2019, the lawyer filed his response to the petition and a hearing was scheduled for March 26, 2019. On March 19, 2019, counsel for the lawyer filed a motion to continue the hearing, which was allowed by this Court and the hearing was rescheduled for May 2, 2019. Bar Counsel's reply to the lawyer's response was filed by Acting Bar Counsel on April 2, 2019, and the lawyer then filed his memorandum in response to Acting Bar Counsel's reply on April 26, 2019.

Upon consideration thereof, and after a hearing attended by acting bar counsel, the lawyer and his counsel;

It is ORDERED that:

Marc John Randazza is hereby suspended from the practice of law in the Commonwealth of Massachusetts for a period of twelve (12) months, with the execution of the suspension stayed for a period of eighteen (18) months, retroactive to October 10, 2018, conditioned upon the lawyer's compliance with the Order entered in the Supreme Court of Nevada, attached hereto and incorporated herein.

After eighteen (18) months from October 10, 2018, the lawyer may file an affidavit of compliance with the Office of Bar Counsel and the Clerk of the Supreme Judicial Court for the County of Suffolk, that he has complied with this Order. Upon receipt, and with the assent of the Office of Bar Counsel, the lawyer may then request that this court issue an order that he is no longer subject to the twelve (12) month suspension for the misconduct that gave rise to the instant petition for discipline.

By the Court, (Gaziano, J.)



Assistant Clerk



Entered: May 14, 2019

EXHIBIT

A

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF DISCIPLINE OF
MARC J. RANDAZZA, BAR NO. 12265.

No. 76453

FILED

OCT 10 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY: *[Signature]*
CHIEF DEPUTY CLERK

ORDER APPROVING CONDITIONAL GUILTY PLEA AGREEMENT

This is an automatic review of a Southern Nevada Disciplinary Board hearing panel's recommendation that this court approve, pursuant to SCR 113, a conditional guilty plea agreement in exchange for a stated form of discipline for attorney Marc J. Randazza. Under the agreement, Randazza admitted to violating RPC 1.8(a) (conflict of interest: current clients: specific rules) and RPC 5.6 (restrictions on right to practice) in exchange for a 12-month suspension, stayed for a period of 18 months subject to conditions.

Randazza has admitted to the facts and the violations alleged in two counts set forth in the amended complaint.¹ The record therefore establishes that Randazza violated the above-listed rules by loaning money to his client without informing the client in writing of the desirability of obtaining independent counsel, and by negotiating with opposing counsel to receive, as part of a settlement, a retainer for future legal services.

As Randazza admitted to the violations as part of the plea agreement, the issue for this court is whether the agreed-upon discipline

¹In exchange for Randazza's guilty plea, the State Bar agreed to dismiss the remaining seven counts in the amended complaint.

18-39837

sufficiently protects the public, the courts, and the legal profession. *State Bar of Nev. v. Claiborne*, 104 Nev. 115, 213, 756 P.2d 464, 527-28 (1988) (explaining purpose of attorney discipline). In determining the appropriate discipline, we weigh four factors: "the duty violated, the lawyer's mental state, the potential or actual injury caused by the lawyer's misconduct, and the existence of aggravating and mitigating factors." *In re Discipline of Lerner*, 124 Nev. 1232, 1246, 197 P.3d 1067, 1077 (2008).

Randazza has admitted to violating duties owed to his client (conflict of interest) and the legal profession (restrictions on right to practice), and the admitted facts reflect that the misconduct was knowing. His conduct may have caused a delay in the disbursement of settlement funds to his client. The baseline sanction for both rule violations, before considering aggravating and mitigating circumstances, is suspension. Standards for Imposing Lawyer Sanctions, *Compendium of Professional Responsibility Rules and Standards*, Standard 4.32 (Am. Bar Ass'n 2017) (providing that suspension is appropriate when a lawyer "knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential injury to a client"); *id.* Standard 7.2 (providing that suspension is appropriate when a lawyer "knowingly engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system"). The record supports one aggravating circumstance (substantial experience in the practice of law) and three mitigating circumstances (absence of prior disciplinary record, full and free disclosure to disciplinary authority or cooperative attitude toward proceeding, and delay in disciplinary proceedings). Considering all the factors, we conclude that the agreed-upon discipline is appropriate.

Accordingly, we hereby suspend Marc J. Randazza for 12 months, stayed for 18 months commencing on the date of this order, subject to the following conditions: (1) Randazza shall "stay out of trouble" during the probationary period, "meaning that he will have no new grievance arising out of conduct post-dating the date of the plea which results in the imposition of actual discipline (a Letter of Reprimand or above, SCR 102) against him"; (2) he shall successfully complete 20 hours of CLE in ethics in addition to his normal CLE requirements during the probationary period; (3) he shall seek the advice and approval of an independent and unaffiliated ethics attorney in the relevant jurisdiction before obtaining any conflicts of interest waivers during the probationary period; and (4) he shall pay the actual costs of the disciplinary proceeding, including \$2,500 under SCR 120, within 30 days of this court's order, if he has not done so already. The State Bar shall comply with SCR 121.1

It is so ORDERED.

Douglas, C.J.
Douglas

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Chair, Southern Nevada Disciplinary Panel
Gentile, Cristalli, Miller, Armeni & Savarese, PLLC
Bar Counsel, State Bar of Nevada
Kimberly K. Farmer, Executive Director, State Bar of Nevada
Perry Thompson, Admissions Office, U.S. Supreme Court

Exhibit 8

Order on Discipline, *In re Marc J. Randazza*, No. S258331
(CA. Dec. 11, 2019)

SUPREME COURT
FILED

DEC 11 2019

(State Bar Court No. SBC-19-J-30338)

Jorge Navarrete Clerk

S258331

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re MARC JOHN RANDAZZA on Discipline

The court orders that Marc John Randazza (Respondent), State Bar Number 269535, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and Respondent is placed on probation for one year subject to the following conditions:

1. Respondent must comply with the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on August 13, 2019; and
2. At the expiration of the period of probation, if Respondent has complied with the terms of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

Respondent must provide to the State Bar's Office of Probation proof of taking and passing the Multistate Professional Responsibility Examination as recommended by the Hearing Department in its Order Approving Stipulation filed on August 13, 2019. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

CANTIL-SAKAUYE

Chief Justice

Exhibit 9

Arizona State Bar's Notice of Successful Completion of Probation
(April 16, 2020)

FILED
4/16/2020
/s/ BRANDI ENSIGN

Maret Vessella, Bar No. 019350
Chief Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602)340-7272
Email: LRO@staff.azbar.org

BEFORE THE PRESIDING DISCIPLINARY JUDGE

**IN THE MATTER OF A MEMBER
OF THE STATE BAR OF ARIZONA,**

**MARC J. RANDAZZA
Bar No. 027861**

Respondent.

PDJ 2018-9110

**NOTICE OF SUCCESSFUL
COMPLETION OF PROBATION**

File No. **18-3420-RC**

Pursuant to Rule 60(a)(5)(C), Ariz. R. Sup. Ct., the State Bar, through undersigned bar counsel, hereby notifies the Presiding Disciplinary Judge of the Supreme Court of Arizona that Respondent has successfully complied with the terms of probation, and the probation is therefore completed.

DATED this 16th day of April, 2020.

/s/Maret Vessella

Maret Vessella
Chief Bar Counsel

Original electronically filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 16th day of April, 2020.

Copy of the foregoing emailed
this 16th day of April, 2020, to:

Jon D. Weiss
Lewis Roca Rothgerber Christie LLP
201 E. Washington St, Ste 1200
Phoenix, AZ 85004-2595
Email: jweiss@lrrc.com
Respondent's Counsel

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266

Compliance Monitor
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266

by: /s/Jackie Brokaw

Exhibit 10

Discharge of Suspension, Commonwealth of Massachusetts
(April 27, 2020)

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
No: BD-2018-110

IN RE: MARC JOHN RANDAZZA

ORDER

This matter came before the Court, Gaziano, on the motion for an order to enter that the lawyer is no longer subject to the twelve month suspension imposed by this Court's May 14, 2018 Order of Term Suspension/Stayed, the execution of which was stayed for eighteen (18) months retroactive to October 10, 2018, and conditioned upon the lawyer's compliance with the Order entered in the Supreme Court of Nevada. With the Office of Bar Counsel assenting to the motion and the fact that execution of the suspension was stayed, the lawyer was never in fact suspended from the practice of law, therefore no formal order of reinstatement is required.

Upon consideration thereof, it is ORDERED that Marc John Randazza shall no longer be subject to the twelve (12) month

RECEIVED
4/27/2020 7:55 AM
MAURA S. DOYLE, CLERK
SUPREME JUDICIAL COURT
THE COUNTY OF SUFFOLK

term suspension for the misconduct that gave rise to the petition for discipline.

By the Court, (Gaziano, J.)


Assistant Clerk

Entered: 4/27/2020

Exhibit 11

Marc J. Randazza MPRE Score

MPRE Score

Name: MARC RANDAZZA

NCBE Number: N10473643

Date of Birth: 11/26/1969

Your score on the Multistate Professional Responsibility Examination (MPRE) administered on 03/13/2020 is as follows:

Scaled Score: 119

The score shown above has been reported to CALIFORNIA as you requested when you registered for the MPRE.

Your MPRE score will be available on your NCBE account only until the next MPRE test date. If you want to obtain your score after that, you will need to request a score transcript, and pay the required fee. Therefore, we recommend that you save this page and/or print it for your records.

Each jurisdiction determines its own passing score on the MPRE. You may find a jurisdiction's passing score, as well as contact information for its bar admission agency, by selecting the jurisdiction from the [interactive map](#). Any questions about admission requirements pertaining to MPRE scores should be directed to the bar admission agency in the jurisdiction to which you are applying.

The MPRE scaled score is a standard score. Standard scaled scores range from 50 (low) to 150 (high).

MPRE Score Services: All MPRE score services listed below must be requested under the Score Services tab or from the File Cabinet of your NCBE account.

- **MPRE Score Report:** If you would like to have your MPRE score sent to another jurisdiction, you must submit a request to NCBE for a score report. Score reports are sent to jurisdictions by secure transfer.
- **MPRE Score Verification:** If you would like to have the scoring of your MPRE answer sheet rechecked by hand, you must request a score verification. **Score verification requests must be submitted to NCBE within two months of the original test date.**
Note: See link in File Cabinet to request a MPRE Score Verification. This link is only visible when the service is available.
- **MPRE Unofficial Score Transcript:** If you would like a replacement copy of your MPRE score after it is no longer available on this page, you must submit a request to NCBE for an MPRE Unofficial Score Transcript. The transcript will include all the MPRE scores you earned from 1999 to the present. All scores on the MPRE Unofficial Score Transcript are duplicative of score information provided following the exam. MPRE Unofficial Score Transcripts will be available in the File Cabinet of your NCBE account, and are not sent by mail.

Exhibit 12

Order of Term Suspension/Stayed, U.S. District Court for the District of Massachusetts
(Sept. 26, 2019)

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: **MARC J. RANDAZZA**

MISC. BUSINESS DOCKET
No.: 18-mc-91490-FDS

ORDER OF TERM SUSPENSION/STAYED

WHEREAS, on March 28, 2019, the United States Patent and Trademark Office has cause to file with this Court a certified copy of an Order of Term Suspension/Stayed with respect to Attorney **MARC J. RANDAZZA**;

1. WHEREAS, pursuant to Local Rule 83.6.9(b), on September 4, 2019, “Notice of Filing of Disciplinary Action” and “Order to Show Cause” were filed in this Court and copies sent (along with a copy of the Local Rule) via certified mail to **MARC J. RANDAZZA**;
2. WHEREAS, on September 19, 2019, Attorney James S. Bolan on behalf of **MARC J. RANDAZZA** filed a Response to Order to Show Cause consenting to reciprocal discipline.

WHEREFORE, pursuant to Local Rule 83.6.9(c), this Court hereby imposes the identical discipline, and **MARC J. RANDAZZA** is hereby suspended from this Court for a period of twelve (12) months, with the execution of the suspension stayed for a period of eighteen (18) months, retroactive to October 10, 2018, conditioned upon the lawyer’s successful compliance with the Order entered in the Supreme Court of Nevada.

Sept. 26, 2019
Date



F. Dennis Saylor, District Judge

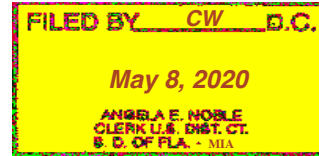
Exhibit 13

Order Adopting Second Amended and Final Report and Recommendation,
U.S. District Court for the Southern District of Florida
(May 8, 2020)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2020-29
CASE # 18-MC-25320

In re: MARC JOHN RANDAZZA
FLORIDA BAR # 625566



**ORDER ADOPTING SECOND AMENDED AND FINAL REPORT AND
RECOMMENDATION**

On February 6, 2019, this Court asked the Ad Hoc Committee on Attorney Admissions, Peer Review, and Attorney Grievance (the “Committee”) to conduct disciplinary proceedings or to make recommendations to the Court for appropriate action in light of attorney Marc John Randazza’s discipline by the Supreme Court of Nevada. (ECF No. 8). Randazza was suspended from the practice of law by the Supreme Court of Nevada on October 10, 2018, “for 12 months, stayed for 18 months.” *See In the Matter of Discipline of Randazza*, 428 P.3d 260 (2018) (“Nevada Order”) (ECF No. 2). This matter initially came to the attention of this Court by letters from Randazza on three separate occasions, informing the Court of the Nevada Order. (ECF Nos. 3-5). Prior to the referral to the Committee, this Court issued an Order to Show Cause for Randazza to respond to the Nevada Order. (ECF No. 6). Randazza responded that any “disciplinary action should be deferred until the successful completion of the period of probation” imposed by the Nevada Order. (ECF No. 7). In a Supplement to his Response, Randazza informed the Court and Committee that he completed the CLE requirement imposed by the Nevada Order and that the United States Court of Appeals for the Eleventh Circuit renewed his admission to the bar of that Court despite the Nevada Order. (ECF No. 9).

On April 1, 2020, after reviewing the record provided by Randazza and having confirmed with him that “he is currently in compliance with the requirements of his probation and is unaware of the existence of any further disciplinary matters brought against him,” the Committee issued its

Report and Recommendation, recommending that this Court adopt the same disciplinary measures imposed in the Nevada Order in addition to requiring that Randazza confirm in writing that he has not been subject to any disciplinary matters since his probation began. (ECF No. 12). After the Report and Recommendation was issued, Randazza sent an email to the Committee explaining that while he has not been subject to any new discipline and believed that the Report and Recommendation was limited to only new discipline, he wanted to update the Committee of other reciprocal orders of discipline already imposed upon him from the Bar of Massachusetts, the Bar of California, the U.S. District Court for the District of Massachusetts, the U.S. District Court for the District of Nevada, and the U.S. Patent and Trademark Office. (ECF Nos. 18, 13-17).

On April 21, 2020, the Committee issued an Amended Report and Recommendation, in which it responded to Randazza's disclosure of reciprocal discipline orders from other courts. (ECF No. 19). The Committee found that "[u]nder the applicable rules of this Court, all of these suspensions should have been reported as they occurred" pursuant to Rule 8(a) of the Rules Governing the Admission, Practice, Peer Review, and Discipline of Attorneys ("Attorney Rules"), Local Rules of the United States District Court for the Southern District of Florida. *Id.* As a consequence, the Committee recommended that this Court "continue Mr. Randazza's probation for an additional year, until April 10, 2021," that Randazza immediately report any changes to the reciprocal discipline orders or new discipline imposed from other courts, and provide the Court with periodic status reports. *Id.* Randazza responded with a request that the Committee withdraw its Amended Report and Recommendation and maintain its initial Report and Recommendation or issue a revised Report and Recommendation that does not characterize his conduct as knowingly violating Rule 8(a). ("Response to Amended Report and Recommendation") (ECF No. 20).

On April 28, 2020, the Committee issued a Second Amended and Final Report and Recommendation, acknowledging receipt and consideration of Randazza's Response to Amended

Report and Recommendation but only modifying its recommendations to the extent of eliminating the additional year of probation. (ECF No. 10). Randazza filed a Response to Second Amended and Final Report and Recommendation in which he “consents to the discipline and requirements recommended by the Committee and respectfully requests that this Court enter an order adopting the recommendations.” (ECF No. 11).

This Court is in agreement with the Committee’s finding that “[u]nder the applicable rules of this Court, all of these suspensions should have been reported as they occurred” and that “Mr. Randazza should have been aware of his obligation to report these orders when they were issued.” (ECF No. 10). Randazza raised the argument that Rule 8(a) only applies to reporting the original discipline and that if he had to report all reciprocal discipline in other jurisdictions, “it would mean that . . . [he] could be potentially reporting dozens of orders to this Court.” (ECF No. 20). These arguments lack merit. Rule 8(a)¹, which is the first procedure where discipline is imposed by other courts, unequivocally directs members of this Bar to report, without modifier, “discipline,” a catch-all to the more specific forms of reprimand, suspension, or disbarment. To infer a limitation on “discipline” to only original and not reciprocal discipline would imply an inherent exception that is not there. Reciprocal discipline is still discipline. Furthermore, the argument about having to “potentially” report “dozens of orders to this Court” is exactly the purpose Rule 8(a) is intended to serve. While it may be “potentially” burdensome, it is an obligation as a member of this Court’s Bar to inform this Court of discipline imposed by other courts so this Court is adequately informed of the activities of its members.

Given this background, in accordance with Rule 8(d) and the Court’s inherent power to regulate membership in its bar for the protection of the public interest, *see Chambers v. NASCO*,

¹ Rule 8(a) in its entirety states: “An attorney admitted to practice before this Court shall, upon being subjected to reprimand, discipline, suspension, or disbarment by a court of any state, territory, commonwealth, or possession of the United States, or by any other court of the United States or the District of Columbia, shall promptly inform the Clerk of the Court of such action.”

Inc., 501 U.S. 32, 43 (1991) (“[A] federal court has the power to control admission to its bar and to discipline attorneys who appear before it.”), having reviewed the file, considered the Committee’s Second Amended and Final Report and Recommendation, it is hereby

ORDERED AND ADJUDGED that the Committee’s Second Amended and Final Report and Recommendation is ADOPTED and the matter is CLOSED.

IT IS FURTHER ORDERED as follows:

1. This Court ADOPTS the disciplinary measures imposed in the Nevada Order with the same probationary requirements set to expire on April 10, 2020;
2. Randazza is to *immediately* file notice with this Court under the above case number of any changes to his status in Massachusetts, California, Nevada, or any U.S. District or Circuit Courts or the U.S. Patent Office;
3. Randazza is to *immediately* file notice with this Court under the above case number of any discipline recommended in Florida, Arizona, or any other jurisdiction filed by the complainant there;
4. Randazza is to *immediately* file notice with this Court under the above case number of any other matters as required by Rules 8 through 10 of the Attorney Rules; and
5. Randazza is to provide this Court a status report under the above case number of any pending disciplinary charges, reviews or proceedings occurring anywhere on the 90th, 180th and 270th day from the entry of this Order, with a final status report due on April 10, 2021.

DONE and ORDERED in Chambers at Miami, Miami-Dade County, Florida, this 8th day of May, 2020.



K. MICHAEL MOORE
UNITED STATES CHIEF DISTRICT JUDGE

Copies furnished as follows: See attached

c: All South Florida Eleventh Circuit Court of Appeals Judges
All Southern District Judges
All Southern District Bankruptcy Judges
All Southern District Magistrate Judges
United States Attorney
Circuit Executive
Federal Public Defender
Clerks of Court – District, Bankruptcy and 11th Circuit
Florida Bar and National Lawyer Regulatory Data Bank
Library
Clinton Payne, Chair, Ad Hoc Committee on Attorney Admissions, Peer Review and
Attorney Grievance
Marc John Randazza

Exhibit 14

U.S. Patent & Trademark Office Final Order
(July 23, 2019)



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF THE GENERAL COUNSEL

July 23, 2019

Mr. Marc J. Randazza
Randazza Legal Group, PLLC
2764 Lake Sahara Drive, Suite 109
Las Vegas, Nevada 89117

CERTIFIED MAIL 7017 2620 0000 0105 7585
RETURN RECEIPT REQUESTED

PERSONAL AND CONFIDENTIAL

Re: File No. D2019-25

FINAL ORDER PURSUANT TO 37 C.F.R. § 11.24

Dear Mr. Randazza:

Enclosed please find a service copy of a Final Order signed on behalf of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

The Final Order will be published on the USPTO FOIA web page (<https://foiadocuments.uspto.gov/oed/>) and the Notice of Stayed Suspension will be published in the Official Gazette.

If you require any additional information or records, you may contact the Office of Enrollment and Discipline at 571-272-4097, or by writing to Mail Stop OED, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Sincerely,

A handwritten signature in black ink, appearing to read "Tricia Choe", is written over the typed name.

Tricia Choe
Associate Counsel
Office of General Law

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

In the Matter of:

Marc J. Randazza,

Respondent

)
)
)
)
)
)

Proceeding No. D2019-25

FINAL ORDER PURSUANT TO 37 C.F.R. § 11.24

Pursuant to 37 C.F.R. § 11.24(b), Marc J. Randazza (“Respondent”) is hereby suspended from the practice of trademark and other non-patent law before the United States Patent and Trademark Office (“USPTO” or “Office”) for one year, stayed for eighteen months subject to conditions, for violation of 37 C.F.R. § 11.804(h).

Background

By Order dated October 10, 2018, the Supreme Court of the State of Nevada in its order in *In the Matter of Discipline of Marc J. Randazza, Esq., Bar No. 12265*, Case No. 76453, suspended Respondent for one year, stayed for eighteen months subject to conditions, from the practice of law in that jurisdiction.

On June 11, 2019, a “Notice and Order Pursuant to 37 C.F.R. § 11.24” (“Notice and Order”), was sent by certified mail (receipt no. 70172620000001058230) notifying Respondent that the Director of the Office of Enrollment and Discipline (“OED Director”) had filed a “Complaint for Reciprocal Discipline Pursuant to 37 C.F.R. § 11.24” (“Complaint”) requesting that the Director of the USPTO impose reciprocal discipline upon Respondent identical to the discipline imposed by the Supreme Court of the State of Nevada on October 10, 2018 in *In the Matter of Discipline of Marc J. Randazza, Esq., Bar No. 12265*, Case No. 76453. The Notice and Order was delivered to Respondent on June 14, 2019.

The Notice and Order provided Respondent an opportunity to file, within forty (40) days,

a response opposing the imposition of reciprocal discipline identical to that imposed by the State of Nevada, based on one or more of the reasons provided in 37 C.F.R. § 11.24(d)(1).

Respondent filed a timely letter dated July 15, 2019 responding to the Notice and Order.

Analysis

In his response, Respondent indicates that he is “amenable to the imposition of discipline identical to that imposed by the Supreme Court of the State of Nevada in *In the Matter of Discipline of Marc J. Randazza, Esq., Bar No. 12265*, Case No. 76453.” (Ex. 1). He further states that he “[does] not believe there is any genuine issue of material fact that the imposition of identical discipline would be unwarranted.” *Id.*

Given that Respondent believes that it is appropriate for the USPTO to impose reciprocal discipline on the same terms and conditions as those set forth in the October 10, 2018 Order of the Supreme Court of the State of Nevada in *In the Matter of Discipline of Marc J. Randazza, Esq., Bar No. 12265*, Case No. 76453, it is hereby determined that there is no genuine issue of material fact under 37 C.F.R. § 11.24(d), and that it is the appropriate discipline to suspend Respondent from the practice of trademark and other non-patent law before the USPTO for one year, stayed for eighteen months, subject to Respondent’s successful compliance with conditions during the eighteen-month stay, as set by the Supreme Court of the State of Nevada.

ACCORDINGLY, it is hereby ORDERED that:

1. Respondent be, and hereby is, suspended from the practice of trademark and other non-patent law before the USPTO for one year, stayed for eighteen months, subject to Respondent’s successful compliance with conditions during the eighteen-month stay, as set by the Supreme Court of the State of Nevada, effective the date of this Final Order;
2. The OED Director publish a notice in the Official Gazette that is materially consistent with the following:

Notice of Stayed Suspension

This notice concerns Marc J. Randazza of Las Vegas, Nevada, who is authorized to practice before the Office in trademark and non-patent matters. In a reciprocal disciplinary proceeding, the Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. Randazza be suspended from practice before the USPTO in trademark and other non-patent matters for one year, stayed for eighteen months subject to conditions, for violating 37 C.F.R. § 11.804(h), predicated upon being suspended (stayed) from the practice of law by a duly constituted authority of a State. Mr. Randazza is not authorized to practice before the Office in patent matters.

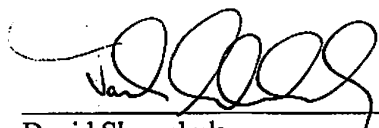
Mr. Randazza was suspended for one year, stayed for eighteen months subject to conditions set by the Supreme Court of the State of Nevada, for knowingly violating duties owed to his client (conflict of interest) and the legal profession (restrictions on the right to practice) arising out of a matter in which Mr. Randazza loaned money to his client without informing the client in writing of the desirability of obtaining independent counsel, and by negotiating with opposing counsel to receive, as part of a settlement, a retainer for future legal services.

This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. § 11.24. Disciplinary decisions are available for public review at the Office of Enrollment and Discipline's FOIA Reading Room, located at: <https://foiadocuments.uspto.gov/oed/>;

and

3. The OED Director give notice pursuant to 37 C.F.R. § 11.59 of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the state(s) where Respondent is admitted to practice, to courts where Respondent is known to be admitted, and to the public.

23 July 2019
Date



David Shewchuk
Deputy General Counsel for General Law
United States Patent and Trademark Office

on delegated authority by

Andrei Iancu
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

cc:

OED Director


Mr. Marc J. Randazza
Randazza Legal Group, PLLC
2764 Lake Sahara Drive, Suite 109
Las Vegas, Nevada 89117

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Final Order Pursuant to 37 C.F.R. § 11.24 was mailed by first-class certified mail, return receipt requested, on this day to the Respondent at the address listed by the Nevada State Bar for Respondent and to where the OED Director reasonably believes Respondent receives mail::

Mr. Marc J. Randazza
Randazza Legal Group, PLLC
2764 Lake Sahara Drive, Suite 109
Las Vegas, Nevada 89117

7/23/2019
Date


United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Notice of Stayed Suspension

This notice concerns Marc J. Randazza of Las Vegas, Nevada, who is authorized to practice before the Office in trademark and non-patent matters. In a reciprocal disciplinary proceeding, the Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. Randazza be suspended from practice before the USPTO in trademark and other non-patent matters for one year, stayed for eighteen months subject to conditions, for violating 37 C.F.R. § 11.804(h), predicated upon being suspended (stayed) from the practice of law by a duly constituted authority of a State. Mr. Randazza is not authorized to practice before the Office in patent matters.

Mr. Randazza was suspended for one year, stayed for eighteen months subject to conditions set by the Supreme Court of the State of Nevada, for knowingly violating duties owed to his client (conflict of interest) and the legal profession (restrictions on the right to practice) arising out of a matter in which Mr. Randazza loaned money to his client without informing the client in writing of the desirability of obtaining independent counsel, and by negotiating with opposing counsel to receive, as part of a settlement, a retainer for future legal services.

This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. § 11.24. Disciplinary decisions are available for public review at the Office of Enrollment and Discipline's FOIA Reading Room, located at: <https://foiadocuments.uspto.gov/oed/>.

23 July 2019
Date



David Shewchuk
Deputy General Counsel for General Law
United States Patent and Trademark Office

on delegated authority by

Andrei Iancu
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

Exhibit 15

Order Discharging Suspension, U.S. District Court for the District of Massachusetts
(June 23, 2020)

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: **MARC J. RANDAZZA**) MISC. BUSINESS DOCKET
) No.: 18-mc-91490-FDS
)
)
)
)

ORDER

1. WHEREAS, on September 3, 2019, the U.S. Patent and Trademark Office caused to be filed with this Court a Final Order suspending Mr. Randazza for one (1) year, stayed for eighteen (18) months subject to conditions with respect to **MARC J. RANDAZZA**;
2. WHEREAS, on September 26, 2019, pursuant to Local Rule 83.6.9(b), a reciprocal Order of Term Suspension/Stayed was issued by Chief Judge Saylor IV;
3. WHEREAS, on April 30, 2020, Attorney Sara Holden representing **MARC J. RANDAZZA** filed an Order notifying the Court that Mr. Randazza has successfully completed the conditions of his stayed suspension as set forth in the Nevada Supreme Court's Order retroactive to October 10, 2018;

WHEREFORE, it is hereby ORDERED that **MARC J. RANDAZZA** shall no longer be subject to the twelve (12) month term suspension for the misconduct that gave rise to the petition for discipline.

Dated: June 23, 2020

/s/ F. Dennis Saylor IV
F. Dennis Saylor IV
Chief Judge, United States District Court

Exhibit 16

Order of Suspension, U.S. District Court for the District of Nevada
(Oct. 22, 2019)

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

In re: Marc J. Randazza,
Attorney at Law, Bar No. 12265

Case No. 2:19-cv-01765-MMD
ORDER OF SUSPENSION

I. SUMMARY

This is an attorney discipline matter. Before the Court is Marc J. Randazza's response to the Court's Order to Show Cause ("OSC") why he should not be suspended from practice before this Court following the Order Approving Conditional Guilty Plea Agreement filed by the Nevada Supreme Court ("NSC") on October 10, 2018. (ECF Nos. 1 (OSC), 3 (the "Response").) As further explained below, the Court will suspend Mr. Randazza from practice before this Court because this Court has neither the obligation, resources, nor inclination to monitor Mr. Randazza's compliance with the probationary conditions the NSC imposed on him. However, Mr. Randazza may file a petition for reinstatement once he has fully discharged those conditions and can produce a certificate of good standing from the NSC reflecting the same.

II. BACKGROUND

Mr. Randazza was suspended by the NSC following his conditional guilty plea to a charge that he violated "RPC 1.8(a) (conflict of interest: current clients: specific rules) and RPC 5.6 (restrictions on right to practice)." (ECF No. 3 at 15.) While Mr. Randazza's suspension was stayed, he is currently subject to several probationary conditions imposed by the NSC. (*Id.* at 17.) Until at least April 10, 2020, Mr. Randazza must: (1) "stay out of trouble;" (2) successfully complete 20 hours of ethics CLE in addition to his normal CLE requirements; and (3) seek the advice of an independent and unaffiliated

ethics attorney in each relevant jurisdiction before obtaining any conflicts of interest waivers. (*Id.* at 3, 15, 17.)

This Court issued the OSC as to why Mr. Randazza should not be suspended from practice in this Court on September 6, 2019. (ECF No. 1.) Mr. Randazza timely filed his Response on October 3, 2019. (ECF No. 3.) In his Response, he argues that this Court should allow him to continue practicing before it because he is still allowed to practice law before the Nevada state courts, and he is currently complying with the probationary conditions the NSC imposed on him. (*Id.* at 3-5.) He also argues that his suspension from practice by this Court would either be gravely unjust, or his misconduct does not justify suspension by this Court. (*Id.* at 3.) He further notes that other federal court have continued to allow him to practice while he is subject to the NSC's probationary conditions. (*Id.* at 5-6.)

III. DISCUSSION

This Court imposes reciprocal discipline on a member of its bar when that person is suspended or otherwise disciplined by a state court unless it determines that the state's disciplinary adjudication was improper. *See In re Kramer*, 282 F.3d 721, 724 (9th Cir. 2002). Specifically, the Court will only decline to impose reciprocal discipline if the attorney subject to discipline presents clear and convincing evidence that:

(A) the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; (B) there was such an infirmity of proof establishing the misconduct as to give rise to a clear conviction that the court should not accept as final the other jurisdiction's conclusion(s) on that subject; (C) imposition of like discipline would result in a grave injustice; or (D) other substantial reasons justify not accepting the other jurisdiction's conclusion(s).

LR IA 11-7(e)(3); *see also In re Kramer*, 282 F.3d at 724-25 (stating that the attorney bears the burden by clear and convincing evidence).

The Court will suspend Mr. Randazza from practice before this Court because the NSC's disciplinary adjudication regarding Mr. Randazza following his conditional guilty plea appears to have been proper, and he presents no clear and convincing evidence to the contrary. Procedurally, Mr. Randazza did not submit a certified copy of the entire

1 record from the NSC or present any argument as to why less than the entire record will
2 suffice. See LR IA 11-7(e)(3). Substantively, while Mr. Randazza does appear to be
3 allowed to practice in the Nevada state courts, he is also subject to probationary
4 conditions that this Court has neither the obligation, resources, nor inclination to monitor.
5 (ECF No. 3 at 17.) And the Court sees no substantial reasons not to suspend Mr.
6 Randazza based on its review of the record. See LR IA 11-7(e)(3). The Court will therefore
7 suspend Mr. Randazza.

8 That said, Mr. Randazza is free to petition the Court for reinstatement under LR IA
9 11-7(i) assuming he is able to successfully complete his term of probation with the NSC.
10 Any petition for reinstatement should not be filed until Mr. Randazza has successfully
11 discharged each and every probationary condition imposed on him by the NSC, and he
12 is able to present both a certificate of good standing from the NSC and evidence sufficient
13 to establish that his practice in the Nevada state courts is fully unencumbered by any
14 probationary or other conditions stemming from his conditional guilty plea or any other
15 discipline imposed on him by the NSC.

16 **IV. CONCLUSION**

17 It is therefore ordered that Marc J. Randazza, Bar No. 12265, is hereby suspended
18 from practice in the United States District Court for the District of Nevada.

19 DATED THIS 22nd day of October 2019.

20
21 

22 MIRANDA M. DU
23 CHIEF UNITED STATES DISTRICT JUDGE
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Exhibit 17

Order of Reinstatement, U.S. District Court for the District of Nevada
(June 9, 2020)

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

In re: Marc J. Randazza,
Attorney at Law, Bar No. 12265

Case No. 2:19-cv-01765-MMD

ORDER

I. SUMMARY

This is an attorney discipline matter. Before the Court is Marc Randazza's petition for reinstatement (the "Petition").¹ (ECF No. 14.) As further explained below, the Court will grant Mr. Randazza's Petition.

II. BACKGROUND

Mr. Randazza was suspended by the Nevada Supreme Court ("NSC") following his conditional guilty plea to a charge that he violated "RPC 1.8(a) (conflict of interest: current clients: specific rules) and RPC 5.6 (restrictions on right to practice)." (ECF No. 3 at 15.)

Upon receiving notice of his suspension by the NSC, the Court issued an order to show cause why Mr. Randazza should not also be suspended by this Court. (ECF No. 1 ("OSC").) Mr. Randazza filed a response to the OSC, arguing he should not be suspended by this Court. (ECF No. 3.) The Court nonetheless suspended him because he remained subject to probationary conditions imposed by the NSC. (ECF No. 5 (the "Suspension Order").) Mr. Randazza then filed an emergency motion to alter or amend the Suspension Order (ECF No. 8), which the Court denied (ECF No. 12).²

¹Mr. Randazza also filed an emergency motion for a hearing on his Petition. (ECF No. 17.) Because the Court will grant the Petition, the Court will deny the emergency motion for a hearing as moot.

1 The Petition followed.³ (ECF No. 14.) In his Petition, Mr. Randazza asks to be
2 reinstated primarily because he has successfully discharged the NSC's probationary
3 conditions. (*Id.* at 2.) In most pertinent part, he attached a letter from the State Bar of
4 Nevada confirming that he has successfully discharged the probationary conditions the
5 NSC imposed on him. (*Id.* at 16.) Mr. Randazza also submitted a declaration explaining
6 he has clients with cases in this district who would like him to represent them (*id.* at 11-
7 14), and some declarations from some of his clients explaining they would like Mr.
8 Randazza to represent them (*id.* at 19-26). Mr. Randazza previously submitted a current
9 certificate of good standing from the State Bar of Nevada. (ECF No. 10-3.)

10 III. DISCUSSION

11 Local Rule IA 11-7(i) states that an attorney who is the subject of an order of
12 suspension "may petition for reinstatement to practice before this court or for modification
13 of the order as may be supported by good cause and the interests of justice." LR IA 11-
14 7(i). The Rule further provides: "if the attorney was readmitted by the supervising court or
15 the discipline imposed by the supervising court was modified or satisfied, the petition must
16 explain the situation with specificity, including a description of any restrictions or
17 conditions imposed on readmission by the supervising court." *Id.* However, the decision
18 as to whether and under what circumstances the attorney will be reinstated to practice
19 before this Court is left to the discretion of the Chief Judge, or other reviewing Judge if
20 the Chief Judge refers the matter to another judge. *See id.*; *see also* LR IA 11-7(a).

21 The Court will grant the Petition because Mr. Randazza has sufficiently
22 demonstrated he successfully discharged the NSC's probationary conditions and is an
23 attorney in good standing with the State Bar of Nevada. (ECF Nos. 10-3, 14 at 16.)
24

25 ²The Court issued this order on November 27, 2019, and received a certified mail
26 receipt indicating it was mailed to Mr. Randazza's counsel that same day. (ECF No. 13.)
27 However, both Mr. Randazza and his counsel claim they never received that order. (ECF
28 Nos. 15 (minute order explaining in response to a letter from Mr. Randazza's counsel
inquiring about a ruling on the emergency motion to alter or amend judgment that the
Court had already issued an order denying it on November 27, 2019), 17 at 4, 17-1 at 3.)

³Mr. Randazza followed up with a letter as well. (ECF No. 16.)

1 Moreover, Mr. Randazza's Petition demonstrates understanding of the Court's prior
2 Suspension Order granting him leave to petition this Court for reinstatement once he
3 could show that he is able to practice in Nevada state courts unencumbered by any
4 probationary conditions. (ECF No. 5 at 3.) The Court thus finds that Mr. Randazza has
5 shown cause to be readmitted to the bar of this Court.

6 **IV. CONCLUSION**

7 It is therefore ordered that Mr. Randazza's renewed petition for reinstatement (ECF
8 No. 14) is granted.

9 It is further ordered that Mr. Randazza's emergency motion for a hearing (ECF No.
10 17) is denied as moot.

11 DATED THIS 9th day of June 2020.



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14 MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE
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Exhibit 18

Order of Termination of Proceedings, U.S. Court of Appeals for the Federal Circuit
(May 28, 2020)

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

MAY 28 2020

PETER R. MARKSTEINER
CLERK

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

IN RE MARC J. RANDAZZA,
Respondent.

2018-MA014

O R D E R

In light of the court's January 3, 2020 order and Marc J. Randazza's submission received May 26, 2020,

IT IS ORDERED THAT:

These proceedings are terminated.

FOR THE COURT

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

EXHIBIT 19

Order to Show Cause

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SCOTT SERIO,
 Plaintiff(s),

v.

PREGAME LLC, et al.,
 Defendant(s).

Case No. 2:21-cv-01940-JAD-NJK

ORDER TO SHOW CAUSE

Pursuant to Canon 3(B)(6) of the Code of Conduct for United States Judges, “[a] judge should take appropriate action upon receipt of reliable information indicating the likelihood that . . . a lawyer violated applicable rules of professional conduct.” The unauthorized practice of law and the aiding of another’s unauthorized practice of law violate Nevada’s ethical rules, and such conduct may lead to disciplinary proceedings and other adverse consequences. *See, e.g., In re Discipline of Lerner*, 197 P.3d 1067 (Nev. 2008) (*en banc*) (publicly reprimanding Nevada attorney for assisting in an Arizona-based attorney’s unauthorized practice of law). Referral to the state bar for investigation and potential disciplinary proceedings may be appropriate when circumstances exist that may show such unauthorized practice of law. *See, e.g., Gutierrez v. Berryhill*, No. 2:18-cv-02068-RFB-NJK, Docket No. 27 (D. Nev. Feb. 19, 2019).

This District has established two primary methods for a person to be authorized to practice law here. First, that person may apply to be admitted to the bar of this Court. Local Rule IA 11-1(a)(1). This process requires, *inter alia*, that the applicant is admitted to practice before the Supreme Court of Nevada and remains in good standing therewith. *Id.* Second, that person may apply to be admitted to practice in a particular case pending in this Court. Local Rule IA 11-2(a). This process requires, *inter alia*, the payment of a fee, Local Rule IA 11-2(b), and the absence of regular practice in this Court by the applicant, Local Rule IA 11-2(h).

1 The record in this case reveals that “Plaintiff’s Primary Counsel[]” are out-of-state
2 attorneys who have not appeared as counsel of record in this matter. Docket No. 13-2 at ¶ 7. These
3 attorneys work for the law firm of SR IP Law in Florida, and appear to have engaged in the bulk
4 of legal activity in litigating this case. See Docket No. 13-2 (billing records). These attorneys do
5 not appear to be licensed to practice law in the state of Nevada, see *White v. Martel*, 601 F.3d 882,
6 885 (9th Cir. 2010) (courts may take judicial notice of state bar records), and they did not apply to
7 appear *pro hac vice* in this action.

8 In light of these concerns, out-of-state attorneys Jonah Grossbardt and Matthew Rollin are
9 **ORDERED** to show cause in writing why they should not be referred to the Nevada State Bar to
10 investigate whether they have engaged in the unauthorized practice of law. Nevada attorneys Marc
11 Randazza, Ronald Green, and Trey Rothell are **ORDERED** to show cause in writing why they
12 should not be referred to the Nevada State Bar to investigate whether they have aided in the
13 unauthorized practice of law. The responses to this order to show cause must be filed by January
14 25, 2023.

15 No later than January 12, 2023, the Nevada attorneys must file a proof of service on the
16 docket showing that they have provided a copy of this order to show cause to the out-of-state
17 attorneys.

18 IT IS SO ORDERED.

19 Dated: January 11, 2023

20 
21 _____
22 Nancy J. Koppe
23 United States Magistrate Judge
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EXHIBIT 20

Letter from State Bar
and Referral

May 31, 2023

Marc Randazza, Esq.
Trey Allen Rothell, Esq.
Ronald D. Green, Esq.
Randazza Legal Group, PLLC
4974 S Rainbow Blvd, Ste. 100
Las Vegas, NV 89118

**Sent via Regular and Certified Mail:
7019 0140 0000 0205 3077**

Re: Grievance File SBN23-00716/ Marc Randazza
Grievance File SBN23-00719/ Ronald Green
Grievance File SBN23-00720/ Trey Rothell

Gentleman:

The Office of Bar Counsel has received the enclosed *Referral to State Bar of Nevada* relevant to USDC Case 2:21-cv-01940, Serio v. Pregame, LLC., reporting alleged professional misconduct on your parts. Grievance files have been opened; the reference numbers appear above.

I have reviewed the *Response to Order to Show Cause* prepared by counsel and filed in the matter on 1/25/23 as well as each of your attached Declarations. Please provide a response to the allegation of Assisting in the Unauthorized Practice of Law and include any additional information or commentary you wish to add to the file.

This is a lawful demand for information from the Office of Bar Counsel in conjunction with an investigation. If no response is received from you, a screening panel of the Southern Nevada Disciplinary Board will be asked to consider your failure to respond as a failure to cooperate with the State Bar in its efforts to enforce Rules of Professional Conduct, which will be considered as a separate disciplinary violation pursuant to RPC 8.1(b) (Bar Admission and Disciplinary Matters).

I am the investigator assigned to this matter and can be reached directly at 775-824-1382 or, preferably, by e-mail at laurap@nvbar.org. Please provide your response **no later than June 19, 2023**.

Sincerely,

Laura Peters

Laura Peters
Paralegal/Investigator
Office of Bar Counsel

Enclosure



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STATE BAR OF NEVADA

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SCOTT SERIO,
Plaintiff(s),

v.

PREGAME LLC, et al.,
Defendant(s).

Case No. 2:21-cv-01940-JAD-NJK

REFERRAL TO STATE BAR OF
NEVADA

Pursuant to Canon 3(B)(6) of the Code of Conduct for United States Judges, “[a] judge should take appropriate action upon receipt of reliable information indicating the likelihood that . . . a lawyer violated applicable rules of professional conduct.” As will be discussed more fully below, the Court finds that there is a likelihood that these lawyers violated the rules prohibiting the unauthorized practice of law (Nev. R. Prof. Cond. 5.5(a)(1)), the assistance of another’s unauthorized practice of law (Nev. R. Prof. Cond. 5.5(a)(2)), and a lack of candor (Nev. R. Prof. Cond. 3.3).¹

I. BACKGROUND

This is a copyright infringement action arising out of the use of Plaintiff’s photograph in a website’s article about betting odds for the 2017 Kentucky Derby. *See* Docket No. 1-2.² In seeking default judgment, a sworn declaration identified out-of-state attorneys with SR IP Law (Jonah Grossbardt and Matthew Rollin) as the “Primary Counsel[]” who engaged in the bulk of legal work in this case. Docket No. 13-2 at ¶ 7; *see also id.* at ¶¶ 13-17 (claiming 25.3 hours expended by SR

¹ The Court makes no finding that the rules have been violated; the Court finds that reliable information exists indicating a likelihood that the rules were violated. Nonetheless, the Court takes very seriously the action of referring attorneys to the bar, so it will explain why it is doing so.

² Citations to “Docket No. ___” herein refer to docket entries in this specific case. References to docket entries made in other cases will be preceded by the name of those cases.

1 IP Law on this case). The declaration also identified in-state attorneys with Randazza Legal Group
2 (Marc Randazza, Ronald Green, and Trey Rothell) as “local counsel,” who expended markedly
3 less time in this case. *Id.* at ¶ 6; *see also id.* at ¶¶ 18-21 (claiming 10.3 hours expended by Randazza
4 Legal Group on this case). Given that the out-of-state attorneys never appeared as counsel of
5 record and are not licensed to practice in Nevada, the Court issued an order to show cause as to
6 whether the circumstances showed the unauthorized practice of law by the out-of-state attorneys
7 and the aiding of the unauthorized practice of law by the in-state attorneys. Docket No. 16. The
8 attorneys filed a response. Docket No. 19.

9 **II. UNAUTHORIZED PRACTICE OF LAW**

10 Both the unauthorized practice of law and the aiding of another’s unauthorized practice of
11 law violate Nevada’s ethical rules. Nev. R. Prof. Cond. 5.5(a). Such conduct may lead to
12 disciplinary proceedings and other adverse consequences. *See, e.g., In re Discipline of Lerner*,
13 197 P.3d 1067 (Nev. 2008) (*en banc*) (publicly reprimanding Nevada attorney for assisting in an
14 Arizona-based attorney’s unauthorized practice of law).

15 This District has established two primary methods for an attorney to become authorized to
16 practice law here. First, that attorney may apply to be admitted to the bar of this Court. Local
17 Rule IA 11-1(a)(1). This process requires, *inter alia*, that the attorney is admitted to practice before
18 the Supreme Court of Nevada and remains in good standing therewith. *Id.* Second, an attorney
19 may apply to be admitted to practice in a particular case. Local Rule IA 11-2(a). This process
20 requires, *inter alia*, the payment of a fee, Local Rule IA 11-2(b), and the absence of regular practice
21 in this Court by the applicant, Local Rule IA 11-2(h). It is undisputed that the out-of-state SR IP
22 Law attorneys are not members of the Nevada bar, are not admitted to practice in this District, and
23 did not apply to appear in this case *pro hac vice*.

24 The order to show cause response indicates that the out-of-state attorneys were not engaged
25 in the unauthorized practice of law, casting them as merely assisting from afar and representing
26 that it was the Nevada attorneys at Randazza Legal Group who were ultimately in charge. *See*,
27 *e.g.*, Docket No. 19 at 3. In so doing, the response points specifically to exceptions to the rules
28 against unauthorized practice of law. For example, the response relies on an exception that applies

1 when a “lawyer is engaged in the occasional representation of a client in association with a lawyer
2 who is admitted in this jurisdiction and who has actual responsibility for the representation and
3 actively participates in the representation, provided that the out-of-state lawyer’s representation of
4 the client is not part of a regular or repetitive course of practice in this jurisdiction.” Nev. R. Prof.
5 Cond. 5.5(b)(5); *see also* Docket No. 19 at 6 (invoking this exception). The response also relies
6 on an exception when a “lawyer is representing a client, on an occasional basis and not as part of
7 a regular or repetitive course of practice in this jurisdiction, in areas governed primarily by federal
8 law, international law, or the law of a foreign nation.” Nev. R. Prof. Cond. 5.5(b)(6); *see also*
9 Docket No. 19-8 at ¶ 10 (invoking this exception).

10 The invocation of these exceptions does not assuage the Court’s concerns. First, both
11 exceptions are subject to a caveat that the lawyering be occasional and irregular. The papers
12 indicate that counsel did not “regularly practice law” in Nevada, *e.g.*, Docket No. 19-3 at ¶ 6, or
13 engage in “business” in Nevada, *e.g.*, Docket No. 19 at 9. However, the records in this courthouse
14 raise significant concerns as to the veracity of those statements. *See Reyn’s Pasta Bella, LLC v.*
15 *Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006) (courts may take judicial notice of the filings
16 on the docket in other cases). Indeed, one recent case (not cited in the papers) on its face involves
17 substantially similar circumstances by the same set of lawyers. *Creative Photographers Inc. v.*
18 *Beautiful People L.L.C.*, Case No. 2:21-cv-2160-GMN-EJY (D. Nev. Dec. 7, 2021). In that case,
19 attorneys for the Randazza Legal Group filed a complaint for copyright infringement. *Creative*
20 *Photographers*, Docket No. 1. After the defendant failed to appear, the Randazza Legal Group
21 sought entry of default and then filed a motion for default judgment. *Creative Photographers*,
22 Docket No. 12. Although they had never appeared as attorneys of record, the bulk of legal fees
23 sought in that motion for default judgment arose from the work of attorneys Grossbardt and Rollin
24 of SR IP Law, along with their staff. *See Creative Photographers*, Docket No. 12-2. SR IP Law
25 is identified in that case as “Plaintiff’s Primary Counsel[]” and Randazza Legal Group is identified
26 as “local counsel.” *Creative Photographers*, Docket No. 12-2 at 2. Hence, SR IP Law’s remote
27 legal practice is not an isolated incident.

Moreover, there are a number of other cases that may involve the same conduct, but in which the record does not include a motion for default judgment, paperwork seeking attorneys' fees, or other documentation that on its face would show whether out-of-state counsel were similarly involved. For example, the record here makes clear that SR IP Law has represented Plaintiff "over the years" in cases using their litigation templates. Docket No. 19-3 at ¶ 9; *see also* Docket No. 19-1 at ¶ 3. Plaintiff Serio is the owner of Eclipse Sportswire, Docket No. 13-1 at ¶ 3, which recently filed two other copyright infringement actions initiated by the Randazza Legal Group that appear to reflect the same form complaint, *see Eclipse Sportswire v. LIR Indus. LLC*, Case No. 2:22-cv-00748-JCM-DJA, Docket No. 1 (D. Nev. May 10, 2022); *Eclipse Sportswire v. Vegas Sports Information Network, LLC*, Case No. 2:21-cv-01205-RFB-DJA, Docket No. 1 (D. Nev. June 25, 2021). Hence, there is a likelihood that the same arrangement among counsel with respect to legal work may exist for these additional cases.³ In light of all of the circumstances, the Court is not confident that SR IP Law's conduct represents an "occasional" practice in this jurisdiction, rather than a "regular" course of conduct.⁴ Hence, the Court is not persuaded that a sufficient showing has been made that the cited exceptions apply.

The Court is also not confident in the ubiquitous assertions that it is really the Randazza Legal Group attorneys who are lead counsel with actual responsibility for the representation. *See*,

³ Over the last year and a half, several other copyright infringement cases were filed by the Randazza Legal Group that appear to use the same template complaint. *See Reiffer v. Wild West Helicopters Inc.*, Case No. 2:23-cv-00032-RFB-EJY, Docket No. 1 (D. Nev. Jan. 6, 2023); *Stross v. Metrospace Design Grp.*, Case No. 2:22-cv-01378-JAD-DJA, Docket No. 1 (D. Nev. Aug. 25, 2022); *Corson v. Executive Realty Services, Inc.*, Case No. 2:22-cv-1292-RFB-BNW, Docket No. 1 (D. Nev. Aug. 11, 2022); *Duffy Archive Ltd. v. Signari Gallery LLC*, Case No. 2:22-cv-00747-JCM-DJA, Docket No. 1 (D. Nev. May 10, 2022); *Kretschmer v. Vegas411, LLC*, Case No. 2:21-cv-01723-GMN-DJA, Docket No. 1 (D. Nev. Sept. 17, 2021). The nature of SR IP Law's involvement in these cases is not clear from the dockets. The Court notes these cases herein simply as further indicia of a likelihood of a violation of the rules.

⁴ The potential that SR IP Law has been regularly engaging in legal work for cases in this District also implicates the *pro hac vice* rules, which require the payment of an admission fee, Local Rule IA 11-2(b), and foreclose "repeated" or "excessive" *pro hac vice* appearances, Local Rule IA 11-2(f). The SR IP Law attorneys represent that they have not "appeared" in a sufficient number of cases in this courthouse to be disqualified from gaining *pro hac vice* status. *E.g.*, Docket No. 19-2 at ¶ 8. Such an assertion begs the question of whether the SR IP Law attorneys are attempting to circumvent the *pro hac vice* rules by not "appearing" in cases when they know or reasonably should know that they required to do so.

e.g., Docket No. 19 at 3. As a starting point, the Court again notes that a sworn declaration indicates the exact opposite: that the SR IP Law attorneys are the “Primary Counsel[.]” and that the Randazza Law Group attorneys have been acting “as local counsel for this matter.” Docket No. 13-2 at ¶¶ 6-7; *see also Creative Photographers*, Docket No. 12-2 at 2 (providing the same characterization of the relationship between the firms). The billing records appear to reflect that SR IP Law and Randazza Legal Group entered into an agreement designating Randazza Law Group as “local counsel.” Docket No. 13-2 at 20 (SR IP Law billing entry for August 23, 2021, related to “creat[ing]” the “Local Counsel Agreement – Randazza Legal Group, PLLC”). The billing records also appear to reflect that the attorneys working on the case recognized SR IP Law as lead counsel. *See* Docket No. 13-2 at 15 (billing record of Randazza Attorney Rothell from October 3, 2022, referencing his transmitting a court order “to lead attys”); *id.* (billing record of Randazza Attorney Rothell from October 6, 2022, for the time spent “[c]onfer[ring] w/ lead counsel”).⁵ On top of all of that, it is SR IP Law who engaged in the bulk of legal services provided, *see* Docket No. 13-2 at ¶¶ 13-21, and the documents drafted by SR IP Law attorneys do not always have any corresponding time entry of any Randazza attorney reviewing them prior to filing, raising the prospect that they were filed without review by a Randazza attorney.⁶ While the response to the order to show cause now insists that it is actually the Randazza Legal Group that acted as lead counsel, *see, e.g.*, Docket No. 19 at 3, the record is to the contrary.

⁵ The billing records are not a model of clarity and the lead attorneys are not identified in these entries by name. Nonetheless, there is no corresponding entry for work by any other attorney for the Randazza Legal Group, but there are corresponding entries regarding communications involving SR IP Attorney Rollin. *See* Docket No. 13-2 at 27-28. The most logical conclusion is that Attorney Rothell was referring to Attorney Rollin of SR IP Law as the lead attorney.

⁶ The complaint is the most obvious example. Randazza Attorney Green now swears that he “reviewed and revised the complaint” prior to its filing. Docket No. 19-5 at ¶ 5. The record paints a different picture. The complaint was “created” and “edited” by SR IP Paralegal James and SR IP Attorney Rollin. *See* Docket No. 13-2 at 19-21. There is no billing entry for work performed by Attorney Green or any attorney at Randazza Legal Group regarding the complaint. Indeed, the first Randazza attorney billing entry is not until months later on January 20, 2022, when Plaintiff was seeking default. Docket No. 13-2 at 15. The only billing entry for Randazza Legal Group for the complaint is for “Paralegal Time” for “[i]ntake of documents for filing from SR IP. Conformed documents and formatted for filing. Filed with Court.” Docket No. 13-2 at 15 (billing entry for October 21, 2021) (underlining added). A paralegal intaking a document, conforming it, and then filing it is assuredly not a sign that the in-state attorneys were steering this ship. This billing record also appears to be at odds with Attorney Green’s representation.

1 In short, the circumstances present a likelihood that the governing rules were violated with
2 respect to the unauthorized practice of law and the assistance in the unauthorized practice of law.⁷

3 **III. LACK OF CANDOR**

4 In addition to the concerns identified in the order to show cause regarding the unauthorized
5 practice of law, the response to the order to show cause raises additional concerns as to a potential
6 lack of candor. Lawyers owe a duty of candor to the courts. A lawyer must not make a false
7 statement of fact to a tribunal. Nev. R. Prof. Cond. 3.3(a)(1). The duty of candor is heightened in
8 an *ex parte* proceeding, during which a lawyer must “inform the tribunal of all material facts
9 known to the lawyer that will enable the tribunal to make an informed decision, whether or not the
10 facts are adverse.” Nev. R. Prof. Cond. 3.3(d).⁸

11 The Court has significant concerns as to several of the representations made in this show
12 cause process. First, counsel provide serial assertions that the Randazza Legal Group attorneys
13 acted as lead counsel and that the SR IP Law attorneys were second chair, despite the earlier sworn
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22 ⁷ The response to the order to show cause includes an opinion of former bar counsel, Rob
23 Bare. *See* Docket No. 19-8. The opinions expressed therein were reached based on the factual
24 representations made by counsel to Bare. *See id.* at ¶¶ 4-5, 23, 25. For example, Bare relies on
25 the representation that Attorney Green “reviewed and revised the draft Complaint prior to filing to
26 ensure that it was accurate, complete, and [] complied with the District of Nevada local rules.” *Id.*
27 at ¶ 12; *see also id.* at ¶ 21 (distinguishing another case given that it involved an attorney allowing
his signature to be used without his review of the filing). Bare also relies on the fact that the work
conducted by the SR IP Law attorneys in this District is of an “occasional” nature. *See id.* at ¶¶ 9-
10. For the reasons explained herein, it is not clear that those factual predicates are accurate.

28 ⁸ Given that that Defendants defaulted, the order to show cause process may be considered
an *ex parte* proceeding. *Cf. Kentucky Bar Ass’n v. Hines*, 399 S.W.3d 750, 766 (Ky. 2013).

1 declaration to the contrary, Docket No. 13-2 at ¶¶ 6-7,⁹ the fact that the bulk of the time on the
2 case was performed by the SR IP Law firm, *see* Docket No. 13-2 at ¶¶ 13-21, the billing records
3 that appear to show that these two firms entered into a formal agreement by which the Randazza
4 Legal Group would act as local counsel, Docket No. 13-2 at 20, the billing records that appear to
5 reflect that the attorneys themselves recognized SR IP Law as lead counsel, Docket No. 13-2 at
6 15, the absence of any billing records for Randazza attorneys regarding key legal documents, like
7 the complaint, *see* Docket No. 13-2 at 15 (billing entry for October 21, 2021, providing instead
8 that paralegal received complaint from SR IP Law for filing, conformed the complaint, and then
9 filed it), and the lack of any Randazza attorney billing entries until default was being sought,
10 Docket No. 13-2 at 15. The record raises serious questions as to the validity of the representations
11 as to the roles of the different attorneys.

12 Second and relatedly, Attorney Green attests specifically that he “reviewed and revised the
13 complaint to ensure that it was accurate, complete, and complied with the District of Nevada local
14 rules.” Docket No. 19-5 at ¶ 5. Any such work by Attorney Green is noticeably absent from the
15 billing records, which instead show that a local paralegal simply obtained the complaint from SR
16 IP Law for the purpose of filing it and that Attorney Green billed no time to this matter until months
17 thereafter, Docket No. 13-2 at 15. Similarly, SR IP Attorney Rollin attests that all of his work
18 product was “supervised” by Attorney Rothell, Docket No. 19-3 at ¶ 10, and Randazza Attorney
19 Rothell attests on the flip side of the coin that “[a]ny work the SRIP Attorneys performed on this
20 action was under the supervision of RLG attorneys,” Docket No. 19-6 at ¶ 8, even though the

21
22 ⁹ An attorney who neither prepared nor signed the subject declaration now explains that
23 the inclusion of this term was merely a “scrivener’s error” and that the term “Primary Counsel”
24 refers to his firm’s longstanding relationship with Plaintiff rather than to his role in this specific
25 case. Docket No. 19-2 at ¶¶ 14-15. Although the subject declaration was attested to by Randazza
26 Attorney Rothell, Docket No. 13-2 at 4, it appears that it was actually prepared by SR IP Attorney
27 Rollin, *see* Docket No. 13-2 at 27-28 (billing entries of October 4, 2022, October 5, 2022, and
28 October 6, 2022, for “edit[ing]” Rothell declaration); *see also id.* at 15-16 (providing no time entry
for attorney Rothell drafting the subject Rothell declaration and indicating that on November 7,
2022, attorney Rothell “beg[a]n review of default judgment materials”). Neither Attorney Rothell
nor Attorney Rollin attest that the assertion in the declaration was a scrivener’s error. *See* Docket
No. 19-3; Docket No. 19-6. Such assertion is instead now made by out-of-state attorney
Grossbardt. Docket No. 19-2 at ¶¶ 14-15. It is unclear how out-of-state attorney Grossbardt can
attest based on personal knowledge as to the intent behind this language provided by Attorney
Rollin and attested to by Attorney Rothell.

1 contemporaneous billing records from Attorney Rothell appear to reference Attorney Rollin as
2 being lead counsel, Docket No. 13-2 at 15 (billing record of Attorney Rothell from October 3,
3 2022, referencing transmittal of court order “to lead attys”); *id.* (billing record of Attorney Rothell
4 from October 6, 2022, for the time spent “[c]onfer[ring] w/ lead counsel”).¹⁰

5 Third, the Court has serious concern regarding the attempts to shoehorn the out-of-state
6 counsel’s activity into an exception requiring, *inter alia*, occasional and irregular practice in this
7 jurisdiction. Nev. R. Prof. Cond. 5.5(b)(5); *see also* Nev. R. Prof. Cond. 5.5(b)(6). In a similar
8 vein, out-of-state counsel attested that they have not engaged in a “regular or repetitive course of
9 business” in Nevada. *See* Grossbardt Decl. at ¶¶ 8, 17; Rollin Decl. at ¶ 6. Nonetheless, the
10 Court’s records reveal at least one other case in which out-of-state counsel appear to have engaged
11 in the exact same lawyering practice within Nevada. *Creative Photographers Inc. v. Beautiful*
12 *People L.L.C.*, Case No. 2:21-cv-2160-GMN-EJY, Docket No. 12-2 (D. Nev. Oct. 26, 2022).
13 Although obviously material to the exception counsel now seek to apply and subject to disclosure
14 under the rules regarding candor to the court, this case was not disclosed in the response to the
15 order to show cause. Moreover, numerous other cases recently filed within this District also appear
16 to create a likelihood that counsel engaged in the same lawyering practice within Nevada in other
17 cases. *See Eclipse Sportswire v. LIR Indus. LLC*, Case No. 2:22-cv-00748-JCM-DJA, Docket No.
18 1 (D. Nev. May 10, 2022); *Eclipse Sportswire v. Vegas Sports Information Network, LLC*, Case
19 No. 2:21-cv-01205-RFB-DJA, Docket No. 1 (D. Nev. June 25, 2021); *see also Reiffer v. Wild West*
20 *Helicopters Inc.*, Case No. 2:23-cv-00032-RFB-EJY, Docket No. 1 (D. Nev. Jan. 6, 2023); *Stross*
21 *v. Metrospace Design Grp.*, Case No. 2:22-cv-01378-JAD-DJA, Docket No. 1 (D. Nev. Aug. 25,
22 2022); *Corson v. Executive Realty Services, Inc.*, Case No. 2:22-cv-1292-RFB-BNW, Docket No.
23 1 (D. Nev. Aug. 11, 2022); *Duffy Archive Ltd. v. Signari Gallery LLC*, Case No. 2:22-cv-00747-
24 JCM-DJA, Docket No. 1 (D. Nev. May 10, 2022); *Kretschmer v. Vegas411, LLC*, Case No. 2:21-
25 cv-01723-GMN-DJA, Docket No. 1 (D. Nev. Sept. 17, 2021).

26
27 ¹⁰ As noted above, there is no corresponding entry for work by any other attorney for the
28 Randazza Legal Group, but there are corresponding entries regarding communications involving
Attorney Rollin of SR IP Law. *See* Docket No. 13-2 at 27-28.

1 In short, the circumstances present a likelihood that the governing rule was violated with
2 respect to the duty of candor.¹¹

3 **IV. CONCLUSION**

4 For the reasons discussed more fully above, the Court finds that there is a likelihood that
5 these lawyers have violated the rules prohibiting the unauthorized practice of law (Nev. R. Prof.
6 Cond. 5.5(a)(1)), prohibiting assisting another in the unauthorized practice of law (Nev. R. Prof.
7 Cond. 5.5(a)(2)), and prohibiting a lack of candor (Nev. R. Prof. Cond. 3.3). Accordingly, the
8 Court will refer this matter to the State Bar of Nevada for further proceedings as it deems fit. The
9 Clerk's Office is **INSTRUCTED** to provide a copy of this order, as well as Docket Nos. 1, 12
10 (including all exhibits), 16, and 19 (including all exhibits), to:

11 State Bar of Nevada
12 Attn: Office of Bar Counsel
13 3100 W. Charleston Blvd., Suite 100
14 Las Vegas, NV 89102

15 IT IS SO ORDERED.

16 Dated: May 2, 2023

17 
18 _____
19 Nancy J. Koppe
20 United States Magistrate Judge
21
22
23
24

25 ¹¹ The Court has not endeavored to identify all instances in which a lack of candor may be
26 a problem, and there are several other questionable representations. *Compare, e.g.*, Docket No.
27 19 at 8 ("SRIPLaw's attorneys did not negotiate on [P]laintiff's behalf [and] did not hold
28 themselves out to others as plaintiff's attorneys on this matter") with Docket No. 1-3 at 2-5
(demand letter from SR IP Law that begins with assertion that "[w]e are a law firm making a
claim on behalf of our client" before repeatedly identifying Plaintiff as its "client" and seeking
to negotiate with Defendants (emphasis in original)); *id.* at 19-20 (second demand letter from SR
IP Law).